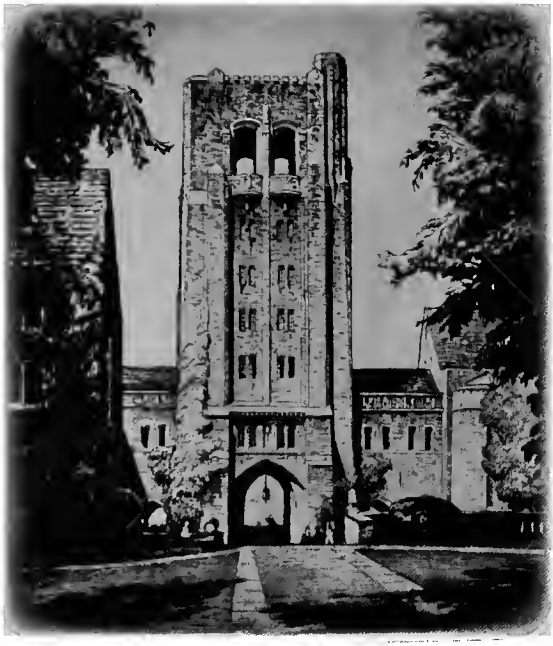

# DIGEST



OF

# DECISIONS AND REGULATIONS

MADE BY

## THE COMMISSIONER OF INTERNAL REVENUE

UNDER

## VARIOUS ACTS OF CONGRESS RELATING TO INTERNAL REVENUE,

AND

## ABSTRACTS OF JUDICIAL DECISIONS, AND OPINIONS OF ATTORNEYS-GENERAL, AS TO INTERNAL-REVENUE CASES.

*From December 24, 1864, to June 13, 1898.*

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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TREASURY DEPARTMENT,

Document, No. 2438.

*Internal Revenue.*

# INTRODUCTORY.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
*Washington, July 1, 1906.*

The following Digest of Decisions and Regulations made by the Commissioner of Internal Revenue under the various acts of Congress relating to internal revenue, including abstracts of judicial decisions and opinions of the Attorney-General as to internal-revenue cases, covering the period from December 24, 1864, to December 31, 1897, inclusive, as published in the successive numbers of the Internal Revenue Record, of New York City, and from January 1 to June 13, 1898, as published in Treasury Decisions, is published for the information of officers of the internal revenue and of all others concerned.

JOHN W. YERKES,
*Commissioner.*

# DIGEST

OF

# INTERNAL REVENUE DECISIONS

RENDERED BETWEEN

DECEMBER 24, 1864, AND JUNE 30, 1898, INCLUSIVE.

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**Bank returns—Concerning duplicates.**

In pursuance of Circular No. 23, as amended, an assessor of taxes will receive both the original and duplicate returns of tax due from banks, banking houses, savings banks, trust companies, railroad, canal, and turnpike companies under sections 110, 120, and 122 of the act of June 30, 1864. All persons and corporations, taxable under these sections, are required to make duplicate returns, with payments, directly to the Commissioner of Internal Revenue, the assessor retaining the original copy of returns in his own office. (T. D.; December 24, 1864.)

**Quarterly tax statement—Form 36.**

The assessor's "quarterly statement" of taxes, on Form 36, should show the amount paid on each subject of taxation, and each return should give the aggregate amount, in order that any discrepancy between the assessor's statement and the returns received by the Commissioner of Internal Revenue may be readily seen and corrected. (T. D.; December 24, 1864.)

**Administration of oaths—Section 52, act of June 30, 1864.**

The Comptroller of the Treasury issues instructions to assessors and collectors of internal revenue respecting matters to be passed upon by the accounting officers of the Treasury Department, calling attention to section 52, act of June 30, 1864, providing that: "All assessors and their assistants, all collectors and their deputies, and all inspectors are hereby authorized to administer oaths and take evidence touching any part of the administration with which they are respectively charged, and where such oaths and evidence are by law authorized to be taken;" and to section 22 of the same law, authorizing the chief clerk of such assessor to administer oaths, in the absence of the assessor himself. (T. D.; December 24, 1864.)

**Articles manufactured for the Government.**

In pursuance of section 83, act of June 30, 1864, it is held that when parties allege that their manufactures or productions are made for the Government, the assessor will await a reasonable period before making an assessment of tax to allow the procuring of the proper certificate to that effect; and, on receipt thereof, he will omit any assessment on goods or articles made for said purpose under the circumstances to which certification is made. (T. D.; December 24, 1864.)

**Security from national banking associations.**

The Treasurer of the United States, with the approval of the Secretary of the Treasury, announces a modification of the rule governing the security required of national banking associations designated as depositories of public money under the act of

**Security from national banking associations**—Continued.

June 3, 1864, to the effect that such an association may qualify itself by depositing with the Treasurer as security such an amount of bonds and seven-thirty notes or certificates of indebtedness, not less than $50,000, as may be prescribed by the Treasurer and approved by the Secretary, not less than one-tenth of the amount to be in United States bonds. (T. D.; December 30, 1864.)

**Certificates of refunding and drawback.**

Collectors are instructed in Circular No. 22, that no certificate should be issued to parties claiming the refunding of duties improperly assessed and collected, unless the duties were paid under protest, nor to issue a certificate to be used in support of a claim for drawback on exports, unless the duties were paid without protest. In either case, the fact of payment either under or without protest should be stated in the certificate. (T. D.; December 30, 1864.)

**Drawback on exported merchandise.**

The Commissioner, in pursuance of sections 171 and 172, act of June 30, 1864, issues regulations to take effect September 15, 1864, governing drawback on exported merchandise upon which an internal-revenue duty has been paid, directing that any party designing to export merchandise on which he intends to claim drawback of internal-revenue duties, paid thereon, shall execute a special manifest in duplicate, one of which he shall file in the custom-house at the port of exportation. Thereupon, the revenue collector, to whom were paid the taxes sought to be refunded, shall, upon application of the manufacturer, grant him a certificate showing evidence of title to refunding, which must be forwarded to the Commissioner of Internal Revenue for appropriate action under the law. (T. D.; August 17, 1864.)

**Nails, brads, castings, spikes, and tacks.**

It is held that, under the excise law, cut nails and spikes are subject to specific duty; railroad and boat spikes, nails and spikes of whatever name, including annealed nails, tacks, finishing nails, brads, and horseshoe nails, wrought by either hand or machinery, are subject to 5 per cent duty, ad valorem; and castings of all descriptions less than 10 pounds in weight, for whatever use or purpose made, and all malleable-iron castings of more or less than 10 pounds, are subject to 5 per cent duty, ad valorem. (T. D.; December 30, 1864.)

**Railway bonds—Municipal deeds—Salary tax.**

Coupons on railway bonds are taxable annually as income. Municipal deeds to lands sold for taxes are exempt from stamp duty, and the 5 per cent salary tax is withheld from payments on prize money adjusted after June 30, 1864. (T. D.; December 30, 1864.)

**Payment of duties on manufacturers.**

Fixing the day on which, under sections 82 and 83, act of June 30, 1864, duties on manufactures shall be payable, it is prescribed that the monthly returns of such manufactures shall be made within ten days after the first of each month. The assessor is required to make return to the collector of all assessments in his district before the 20th of each month. The payment of such taxes may, however, be demanded under the law any time during the last ten days of each month, but the right of distraint shall not accrue till ten days after the demand. (T. D.; December 30, 1864.)

**Release of contractors from increased duties.**

The Secretary of the Treasury issues regulations for the release of contractors with the United States from the increased duties imposed by the act of June 30, 1864, calling the attention of revenue tax assessors to section 97 of said act, providing that, where the United States is the purchaser of articles on which a duty is imposed, or the duty increased, by the act, under a contract made prior to its passage, the

**Release of contractors from increased duties**—Continued.

certificate of the proper officer of the Department by which the contract was made, showing, according to the aforesaid regulations, the articles so purchased and liable to such subsequent duty, shall be taken and received in discharge of such subsequent duties on articles so contracted to be delivered, and actually delivered. (T. D.; December 30, 1864.)

**Payments of claims for release from increased duties.**

In pursuance of regulations made by the Secretary of the Treasury for the release of contractors with the United States from increased duties under the act of June 30, 1864, it is directed that the tax assessor shall examine the evidence submitted in support of a claim for release, and, if satisfied of its sufficiency and of the truth of the claim, shall certify the same in writing to the Commissioner of Internal Revenue, whereupon, if the Commissioner shall approve the claim, he shall transmit to the claimant a draft upon the collector of internal revenue of the district in which the claim is presented for the amount. (T. D.; December 30, 1864.)

**Reassessment—Wholesale and retail liquor dealers' licenses.**

It is held that, under section 80 of the statute relating to the reassessment of licenses, persons doing business after June 30, 1864, under license dating from May 1 to June 1, 1864, are liable for the highest rates of license imposed by either the old or the new law, and no more. Therefore, all amounts already paid for such license are to be either allowed or deducted when a reassessment is made of wholesale and retail liquor dealers' licenses. (T. D.; January 6, 1865.)

**Returns of taxpayers when false and erroneous.**

Assessors and assistant assessors of income tax are instructed by the Commissioner, in special Circular No. 12, as to complaints relating to returns of income tax, holding that any taxpayer who renders untrue returns commits a triple offense: First, against the country which he defrauds; secondly, against his neighbor, on whom is imposed a larger share of the public burden; and, thirdly, against the law, which he violates both civilly and criminally. Assessors should make the necessary inquiries to ascertain and correct such returns, which are due sometimes to ignorance, sometimes to carelessness and inadvertence, and sometimes to a purpose to defraud. (T. D.; January 9, 1865.)

**Effect of false returns.**

A false return of tax, even if accepted without alteration, has no binding effect on the Government, tho the tax be paid. Upon the discovery of the fraud, the assistant assessor may make the proper increase, and, if the taxpayer swear down the increased assessment, he may be proceeded against for perjury; or, which is the better way, an investigation may be had under section 14, act of June 30, 1864, and 100 per cent added to the assessment by way of penalty. (T. D.; January 9, 1864.)

**Excise Law (section 17) construed.**

Construing section 17 of the excise law, the Commissioner holds that an auctioneer is authorized to sell at auction under his license at any place he may choose, and the party for whom he sells needs no license; but such an auctioneer can not sell at private sale without a dealer's license, unless such sales are made for or on behalf of a regularly licensed dealer in such dealer's place of business. If he sells at auction, his license as auctioneer covers the sale, and no other license is necessary. (T. D.; January 10, 1865.)

**Rectifiers of wine.**

Regulations made in pursuance of section 94 of the excise law, relative to the assessment of tax upon wine not made from grapes, currants, rhubarb, or berries, provide that makers of such wine must pay their taxes under the law as rectifiers. (T. D.; January 10, 1865.)

**Reassessments of licenses—Section 80, act of 1864.**

Section 80, act of June 30, 1864, in regard to reassessments of licenses, provides that persons doing business after June 1, 1864, under licenses dating from May 1 or June 1, 1864, are liable for the highest rates of license for such business imposed by either the old or the new law, and no more. Therefore, all amounts already paid for any such license are to be allowed or deducted when a reassessment is made; and so much of Circular 4 as conflicts with this ruling is thereby superseded. (T. D.; January 6, 1865.)

**Publication of tax lists.**

An assessor is not obliged to give out lists of assessments. The law only requires that the tax list shall be opened for inspection or examination by such persons as may wish to inspect or examine. If anyone should wish to copy the list for publication, or otherwise, he may do so, but on his own responsibility alone. (T. D.; January 17, 1865.)

**Medical compounds.**

It is held that all medical compounds following the formula of the United States or national pharmacopœia, dispensatories, formularies, or text-books in common use among physicians and apothecaries are not liable to stamp or ad valorem duties, and no special license is required to use them. (T. D.; January 17, 1865.)

**Process of summons.**

The process of summons is not essential to enable the assessor to assess the legal penalties for neglect, refusal, or fraud in making returns, but may be used if the assessor deems it advisable. The place of investigation should be located within the district of the assessor who issues the summons. No assessment can be increased without a previous notice of at least five days to the party interested to appear. (T. D.; January 17, 1865.)

**Stamp on receipts.**

In reply to an inquiry if the following form, viz, "I have to acknowledge your favor with inclosures," etc., is liable to duty as a receipt, it is held that such an acknowledgment contains in itself no evidence that any sum of money or any debt has been paid, or that any property has been received for delivery, and therefore is not taxable. Receipts for the payment of any sum of money or for the payment of a debt exceeding $20 are liable to 2-cent stamp. (T. D.; January 17, 1865.)

**Banks—Tax on capital and surplus fund.**

The working or employed capital of a bank comprehends the authorized capital, together with the surplus fund. In neither sections 79 nor 110, act of June 30, 1864, is the term "authorized capital" used, nor any indication that the license or tax is to be limited to that amount, thus leaving the large surplus, which is actually employed as capital, untaxed. (T. D.; January 17, 1865.)

**Coal-oil transportation.**

Coal oil, intended for transportation, may be withdrawn from warehouses and transferred into tin cans. (T. D.; January 14, 1865.)

**Conveyancer's license.**

Conveyancers, who advertise themselves as such, are required to take out license. A person who occasionally draws a deed or other instrument in writing as a matter of convenience for another might not be liable to the license tax. Circumstances, however, will determine the question of liability in each case. (T. D.; January 14, 1865.)

**Land-warrant assignment.**

Assignments of Government land warrants require a 5-cent stamp on each agreement. (T. D.; January 14, 1865.)

**Bankers and broker's license.**

The law contains no provision for the remission of a tax that has been illegally assessed, and in view of the equities of the case it is held that where bankers have taken out broker's license under the old law they shall be allowed a ratable proportion of the amount paid for such license in determining the amount at present due. (T. D.; January 14, 1865.)

**Purchase of quartermasters' vouchers.**

Purchases of quartermasters' vouchers on his own account by a person following the army are not liable to broker's tax, provided he sells nothing which is not bona fide his own property and on hand at the time of sale. (T. D.; January 14, 1865.)

**Rent, salary, etc.**

Deductions are not made in estimating taxable salary, excepting $600. In estimating income tax the same deductions as to rent, water rates, etc., may be made as with any other person. (T. D.; January 14, 1865.)

**Stamp on receipts.**

The affixing on a dividend sheet a stamp sufficient to cover a number of receipts on said sheet will obviate any prosecution on part of this Bureau for not affixing stamps in exact conformity with the law, the presence of a single comprehensive stamp showing the absence of intent to defraud the Government. But the validity of the stamp might be questioned in court, and individuals must assume all responsibility for affixing said stamp alone. (T. D.; January 14, 1865.)

**Stamp on indorsements.**

Indorsement of the payment of interest on either a bond or a mortgage, on the back of the instrument, requires no stamp altho in the form of a receipt, delivery being necessary to subject to duty any written instrument requiring a stamp. (T. D.; January 14, 1865.)

**Stamp on photographs.**

Photographs, whether sold at retail or wholesale, require to be stamped at the retail price. (T. D.; January 14, 1865.)

**Duty on vinegar.**

Vinegar, made from alcoholic dilutions, the juices of fruit, or any other liquid that is susceptible to the acetous fermentation, is subject to the duty of 5 per cent ad valorem. A distiller having license will not require manufacturer's license to make vinegar. A vinegar manufacturer, who produces to the value of $1,000 annually, is subject to license. (T. D.; January 14, 1865.)

**Spun-yarns tax.**

When yarns are spun to be woven or knitted in the same manufactory they should not be assessed until the fabric is complete. When warps are purchased and woven into bed or soldiers' blankets, the warps having paid duty, the increased value only should be assessed. (T. D.; January 14, 1865.)

**License notice.**

Where a license expires on Sunday no penalty is to be enforced if payment be made the following Monday. (T. D.; January 14, 1865.)

**Warehouse receipts.**

Warehouse receipts for property, goods, wares, etc., where the value can be ascertained and does not exceed $500, are liable to stamp duty of 10 cents; if more than $500, and less than $1,000, a 20-cent stamp is required. If not ascertainable and when the value exceeds $1,000, but less than $10,000, a stamp duty of 25 cents is required. (T. D.; January 14, 1865.)

**License for firms.**

All lawyers, conveyancers, claim or patent agents, physicians, cattle brokers, tho associated as partners in business, are required by the law to take out license. (T. D.; January 14, 1865.)

**Railroad and express company receipts.**

The law does not require railroad and express companies to give receipts for the delivery of goods, but if receipts be given they should be stamped. (T. D.; January 14, 1865.)

**Water-rent exemption.**

The amount charged against owners, whether their houses are supplied with water or not, is a tax, but the amount charged for the use of water can not be so considered, and therefore should not be deducted in estimating income. (T. D.; January 14, 1865.)

**Deeds of partition and release.**

Deeds of partition or of release between tenants in common are neither deeds nor conveyances by which title is given to real estate, nor does consideration pass between the parties, but the object of such release is simply to limit and define the right of the respective parties, and are not liable to stamp tax. (T. D.; January 14, 1865.)

**Soldering for roofing.**

The soldering together of tin plate for roofing is not held to be a manufacture. (T. D.; January 14, 1865.)

**Tax on steam boilers.**

Steam boilers are considered a distinct manufacture, and are regarded as a specialty. When sold apart from the engines, the boilers are subject to a duty of 5 per cent ad valorem. (T. D.; January 14, 1865.)

**Stamp receipt for charitable societies.**

Receipts for money given to any charitable institution does not require a stamp, not being a payment of money for a debt due; nor does a receipt for goods presented to such society require a stamp, no rights being acquired by anyone thru such receipt. (T. D.; January 14, 1865.)

**Bankers as brokers.**

A person who has been engaged in the brokerage business since July, 1864, and has taken out a banker's license, is exempt from a broker's license. (T. D.; January 14, 1865.)

**Tax on customs work.**

A tailor, boot or shoe maker, milliner or dressmaker, engaged exclusively in manufacturing to order as customs work, shall be exempt from duty to the amount of $600, and the excess of that amount shall be subject to a duty of 3 per cent ad valorem. If, however, their fabrics are made for sale generally they must pay 5 per cent on their products. (T. D.; January 14, 1865.)

**Manufacturers' place for returns.**

Manufacturers must make returns to the assessor of the district in which their business is located, tho they may reside and make sales in other districts. When a manufacturer effects his own sales personally or by an agent the tax does not accrue on removal from the place of manufacture to the place of sale, but only when sales are actually made. (Sec. 142, act of 1864.) (T. D.; January 14, 1865.)

**Tax on succession.**

The tax on succession is to be assessed in the district where the property is located, whether the successor be a resident or not. Tax is to be paid by successor when

**Tax on succession**—Continued.

he takes possession. It can be demanded of neither an executor nor an administrator. If dower is to be set off immediately after the death of a party, the assessor may wait therefor, otherwise not. Assessors knowing of any estate lying in other districts should notify the proper officer that it is subject to tax. (T. D.; January 14, 1865.)

**Insurance agents.**

A person traveling as an insurance agent, soliciting risks or issuing policies, is subject to license tax; but if he is merely looking after the general business of the company, not issuing policies nor taking risks, he is not liable. (T. D.; January 14, 1865.)

**Brewers' tax.**

Brewers must pay duty of $150 per gallon on all distillations from sour beer and wastes from vats. (T. D.; January 14, 1865.)

**Tax on bricks.**

Act of June 30, 1864, imposes a tax on bricks to take effect on such as were made and not removed from the place of manufacture or production on that date, June 30, 1864. (Sec. 173.) If such removal had taken place, the bricks become taxable whenever removed for consumption or sale on all in excess of $600 per annum. (T. D.; January 14, 1865.)

**Express companies as brokers.**

Where express companies or their agents make it a business to sell United States coupons, etc., or coined money, they are subject to license as brokers. But if they merely convey the coupons to brokers who make the sales they are not liable to the tax. (T. D.; January 14, 1865.)

**Gold brokerage.**

A person selling gold which is his own at the time of sale is not liable to tax as a broker. (T. D.; January 14, 1865.)

**Tax on ferries.**

Parties owning or managing ferries with termination in Canada, if authorized by law to receive tolls, etc., are not exempt from taxation on gross receipts, but are subject to 3 per cent tax. If the parties do not receive tolls they are exempt. See proviso in section 103, act of June 30, 1864, relating to foreign ports. (T. D.; January 14, 1865.)

**License to contractors.**

Contractors may do business in any other locality than that specified in their license. (T. D.; January 14, 1865.)

**Tax on leather.**

Leather partially tanned, or purchased in the rough in Canada, or in any other foreign country, and finished in the United States, is subject to an ad valorem duty of 5 per cent. (T. D.; January 14, 1865.)

**Stamps on coupons.**

Interest coupons attached to city or county bonds require no stamp, even if attached and past from one person to another. The stamp of the bond covers the coupon. (T. D.; January 14, 1865.)

**Broker's sale of Government stocks.**

As to payment of taxes upon sales of United States securities, it is held that where brokers in stocks or bonds receive any part of their commission from the parties selling such stocks or bonds, they are liable to tax. (T. D.; January 14, 1865.)

**Tailors' tax.**

Tailors who have a mixed business of custom and ready-made clothing are liable to a 5 per cent tax under the act of June 30, 1864. (T. D.; January 14, 1865.)

**Foreign insurance agents.**

The tax on foreign insurance agents is imposed without reference to the amount of their receipts. (See sec. 79, clause 28, act of June 30, 1864.) (T. D.; January 14, 1865.)

**Stamp on "original process."**

Each "original process" must bear a stamp tax. (T. D.; January 14, 1865.)

**Gross receipts.**

Any person owning or managing a railroad, canal, steamboat, etc., engaged in transporting passengers or the United States mails, is liable to a tax of 2½ per cent on gross receipts. A person who carries mails on foot or on horseback is not liable to tax. (T. D.; January 14, 1865.)

**Inspection of tobacco.**

Manufactured tobacco, except in the shape of cigars, is not required by the act of June 30, 1864, to be inspected, unless it be removed in bond. (T. D.; January, 14, 1865.)

**Carding.**

Carding of rolls is not considered a manufacture. (T. D.; January 14, 1865.)

**Tax on castings.**

Castings of less than 10 pounds in weight, if fitted for a particular purpose and can be used for no other, are not subject to tax. (T. D.; January 14, 1865.)

**Broker's license.**

A person who sells his own property only is not required to take a broker's license; but a person or firm making sales of property not bona fide at the time of sale or offer of sale, the property not being his own and actually on hand, is liable to pay 50 per cent in addition to the broker's rates of duty on sales, besides being amenable to the law in respect to penalties. (T. D.; January 14, 1865.)

**Income return.**

Income derived from separate and individual estates of a wife or of a child is entitled to a separate deduction of $600. (T. D.; January 14, 1865.)

**Sales of stocks and bonds.**

Section 99, act of June 30, 1864, imposes a tax upon all sales and contracts for the sale of stocks and bonds one-twentieth of 1 per cent on the par value thereof, and upon all sales of merchandise, produce, or other goods, one-eighth of 1 per cent. (T. D.; January 14, 1865.)

**Tax on repairs.**

Whenever a producer or a manufacturer shall use or consume any articles, goods, wares, etc., which if removed for sale would be liable to taxation, he shall be assessed upon the articles, goods, etc., used. (See Section 94, Section 93, proviso, act of June 30, 1864.) (T. D.; January 14, 1865.)

**Manufacture of cheese.**

Making cheese for others requires a manufacturer's license. (T. D.; January 14, 1865.)

**Tax on scrap and pig iron.**

Imported pig iron, on which the import duty has been paid, is considered as "taxed pig." Scrap iron is regarded as untaxed material, and castings made from it are subject to additional tax of $3 per ton. Castings made directly from the ore are subject to a tax of $6 per ton under the last clause of section 94, act of June 30, 1864. (T. D.; January 14, 1865.)

**Proprietary articles.**

Every box, bottle, package, etc., containing any proprietary medical compound as a remedy or specific for disease is subject to stamp tax. (T. D.; January 14, 1865.)

**Twine tax.**

Twine made from cotton warps is subject to an ad valorem tax of 5 per cent—not on increased value. (T. D.; January 14, 1865.)

**Tax on banks and banker's license.**

Section 110, act of June 30, 1864, imposes a tax of one-twenty-fourth of 1 per cent each month upon the average amount of the capital of any bank, association, company, or person engaged in the business of banking. Section 79 of said act declares that every firm, person, etc., having a place of business where credits are opened by the collection or deposit of money or currency, subject to draft, check, or order, or where money is advanced or lent on stocks, bonds, etc., shall be regarded as a banker. If, therefore, a broker has capital employed in banking he is liable to tax thereupon. (T. D.; January 14, 1865.)

**Stamp on a lease.**

The stamp tax on a lease, where the value is not ascertained, must cover the largest amount stipulated in the instrument, as in a lease for the delivery of wood. (T. D.; January 14, 1865.)

**Repairs as a manufacture.**

Repairing is held to be a manufacture, and returns thereon should be made as for any manufacture. (T. D.; January 14, 1865.)

**Tax on national banks.**

National, like other banks, are required to pay tax on their entire profits, whether derived from interest on United States bonds or from other sources. (T. D.; January 14, 1865.)

**Stamp on receipts.**

No stamp is required on receipts in cases where the stamp would become a charge to the United States, or to any county or municipality, etc. (T. D.; January 14, 1865.)

**Stamp on a jurat.**

A jurat to the oaths of judges and clerks of election, etc., requires a 5-cent stamp. A claim filed in a county court, being considered an original summons, requires a stamp. (T. D.; January 14, 1865.)

**Powers of attorney.**

Powers of attorney and similar instruments, if made and executed without stamp, prior to June 30, 1864, may be rendered operative under section 163 of the act of that date; but if made subsequent to that date they can not be effectually stamped. (T. D.; January 14, 1865.)

**Private bank profits.**

The profits of a private bank not authorized to issue notes are not subject to tax under sections 120 and 121, act of June 30, 1864. (T. D.; January 14, 1865.)

**Oil lessors' license.**

Speculators in oil leases and in the fees of oil lands are not liable, as such, to tax under the act of June 30, 1864, they being held as engaged in buying and selling for themselves only. (T. D.; January 14, 1865.)

**Petroleum, when a manufacture.**

Petroleum, when mixed with animal oil to make a lubricator, is a manufacture. Naphtha, if subject to chemical treatment, is held to be a manufacture, subject to a tax of 5 per cent ad valorem; but if mixed with petroleum or crude oil for the purpose of being redistilled and converted into an illuminating oil it is liable to a tax of 15 and 20 cents per gallon. Naphtha made from the mere distillation of coal tar produced in the manufacture of gas, without chemical process, is exempt from duty. (T. D.; January 14, 1865.)

**Bond of administrator.**

The bond of an administrator is liable to a stamp tax of $1. Only one stamp tax is required on a probate of will, with letters of administration, and the stamp should be placed on the probate. (T. D.; January 14, 1865.)

**Bills of lading.**

Bills of lading, or receipts for the transportation of goods from one port or place in the United States to another, require a 2-cent stamp. Duplicates require the same stamp as originals. (T. D.; January 14, 1865.)

**Tax on salaries.**

Persons employed by either the day or the month, by any other party than the Government, are liable to an income tax upon only the excess of $600 of their entire income. Persons employed by the Government by the day or the month are taxed on the excess above $2 for each day's service, and if employed by the month on all excess over $50 per month. (T. D.; January 14, 1865.)

**Transportation receipts.**

A firm running boats inland from the United States to Canada is exempt from tax on gross receipts for transportation of passengers or goods from Canada. (See Proviso, sec. 103, act of June 30, 1864.) (T. D.; January 14, 1865.)

**Cattle broker.**

A person whose business it is to buy or to sell or to deal in hogs, cattle, or sheep must have a license as a cattle broker, whether a member of a firm or not (See sec. 79, clause 12, act of June 30, 1864.) (T. D.; January 14, 1865.)

**Stamp on bond.**

The bond of a guardian, being for the faithful execution or performance of the duties of his office, is subject to a stamp tax of $1. The letters of a guardian are a certificate of appointment and require a stamp tax of 5 cents. (T. D.; January 14, 1865.)

**Licenee of retail dealer.**

No additional license is required of a manufacturer who keeps an office merely for the convenience of business either in or out of his district, provided no goods, etc., shall be kept for sale at said office. (T. D.; January 14, 1865.)

**Bank licenses.**

A license is required by each branch of a bank, by either the parent bank or the separate organizations. Each license must rate in accordance with the amount of capital employed. (T. D.; January 14, 1865.)

**State and municipal bonds.**

When bonds are issued by a State, county, city, or town in aid of a railroad company, the Government tax of 5 per cent must be withheld, tho neither bond nor coupon may express the liability of the company; and, whether the interest is paid by the State, city, or town, and received from the railroad company, or paid by the company directly to the bondholders, is immaterial. In either case, the managers of the company are responsible for the tax. The bonds being held by a foreigner will not affect the question, unless the coupons be payable abroad. (T. D.; January 14, 1865.)

**Letters of administration.**

The tax imposed by law on letters of administration and on an administrator's bond covers all papers that are necessary in the settlement of an estate and, therefore, the petition for the settlement of an estate is exempt from tax. (T. D.; January 14, 1865.)

**Banker defined.**

Every person having a place of business where credits are opened by the deposit or the collection of money or currency, subject to be paid out or remitted on draft, check, or order, is regarded as a banker, as defined in section 79, act of June 30, 1864. (T. D.; January 14, 1865.)

**Teacher's certificate.**

The certificate showing the qualification of a school-teacher requires a 5-cent stamp. (T. D.; January 14, 1865.)

**Widow's dower.**

The dower of a widow whose husband has died subsequent to the act of June 30, 1864, is liable to a succession tax of 6 per cent on the clear value of the dower, as the succession of a stranger in blood. (T. D.; January 14, 1865.)

**Mortgage stamp—Deeds.**

Where land is sold subject to a mortgage without a covenant by the grantee to pay the mortgage debt, the stamp should be appropriate to the consideration, of which the mortgage does not form a part. Where the grantee assumes to pay the mortgage debt, the debt is estimated as a part of the consideration, and the stamp will be appropriate to the whole value of the land. Deeds made by sheriffs, administrators and trustees, are not included in the term "legal proceedings," but require a stamp measured by the value that passes. (T. D.; January 14, 1865.)

**Special income tax.**

All incomes of persons who died between January 1 and July 3, 1864, are exempt from special income tax under the act of June 30, 1864. Incomes accruing to persons who died in 1863 are exempt from income tax. Incomes accruing upon estates between date of death and January 1, 1863, are liable to tax, being assessed to executors, administrators, and trustees, if undistributed on July 4, 1864, but if, before that date, they are distributed, they must be taxed against the legatees or distributees. All income from the estate of a person who died in 1860, accruing in 1863, is liable to special income tax. (T. D.; January 17, 1865.)

**Tax on bank circulation.**

If, under the national currency act, approved June 3, 1864, a State bank is converted into a national bank, the outstanding circulation will be returned for taxation as formerly, so long as it remains outstanding, or until, under the act of June 30, 1864, the bank shall deposit in the United States Treasury, in lawful money, the amount of its outstanding circulation. (See sec. 110, act of 1864.) (T. D.; January 25, 1865.)

**Tax on "average amount" of bank circulation.**

The tax on the "average amount" of a State bank circulation, in excess of 90 per cent of capital, is estimated on the average per month; if the entire capital is transferred, or distributed among stockholders, the average circulation is taxed at one-sixth of 1 per cent, in addition to one-twelfth of 1 per cent. The return is made monthly in the name of the State bank, and the tax paid to the Commissioner of Internal Revenue. (T. D.; January 25, 1865.)

**Tax on manufactures of paper.**

The act of June 30, 1864 (section 94), imposes a duty of 3 per cent ad valorem on manufactures of paper of all descriptions, no matter for what purpose either made or used. All manufactures of paper, not otherwise provided for, including paper bags, are taxable at the rate of 5 per cent ad valorem, the measure of value being the manufacturer's price. (T. D.; January 5, 1865.)

## Income.

### Income returns.

Losses incurred in one business can not be offset against gains in another business, and returns of income must be made on the gains. (T. D.; January 5, 1865.)

### Income from prize money.

Section 123, act of June 30, 1864, requires that payments of prize money shall be regarded as income from salaries and tax collected accordingly. In estimating special income tax, salary, allowance, prize money, etc., are to be returned, the tax to be levied by assessors, and not payable to paymasters. (T. D.; January 5, 1865.)

### Income of individuals.

Each member of any company, whether a corporation or a partnership, must return his individual share or interest in the gains and profits of the company, whether the profits or gains be divided or not. (T. D.; January 5, 1865.)

## Stamps.

### Stamp on writs.

The act of June 30, 1864, imposes a stamp tax of 50 cents upon writs issued by a court, not of record, where the amount claimed is $100, or more, without regard to the amount ultimately recovered, and it is not exempt, even with the addition of the words "or under." (T. D.; January 5, 1865.)

### Corporation bonds.

Bonds or other official papers issued by public municipal corporations, are held to be exempt from stamp tax. (T. D.; January 5, 1865.)

### Quitclaim deeds.

Quitclaim deeds, conveying the same property as warranty deeds, are exempt from stamp tax. A stamp is required on the mortgage only, not on the accompanying note. (T. D.; January 5, 1865.)

### Stamp on certificate.

An "ante-nuptial declaration," altho drawn as a deed of trust, can be considered merely as a certificate, and requires a 5-cent stamp. (T. D.; January 5, 1865.)

### Stamp on lease.

As each copy of a lease possesses a legal value, each requires a stamp. (T. D.; January 5, 1865.)

### Stamp on conveyance of land.

Where parties who own lands as tenants in common become a corporation, the conveyance of lands by the individuals to the corporation changes the title, and is therefore liable to tax. (T. D.; January 5, 1865.)

### Memorandum checks.

Memorandum checks drawn by the cashier on the institution of which he is an officer, if in furtherance of the business of the institution, do not require a stamp. (T. D.; January 5, 1865.)

### Receipts unstamped.

An unstamped receipt is not valid, and a person who signs and issues such a receipt is liable to a penalty under the act of June 30, 1864. (T. D.; January 5, 1865.)

### Oil leases.

Oil leases are in the nature of conveyances and must be stamped as such, under the law. (T. D.; January 5, 1865.)

### Stamp on receipt.

A written receipt for money, naming the amount received and signed by the person receiving the same, is required to be stamped; but the written acknowledgment of the receipt of a draft requires no stamp, the draft itself having been stamped, unless the draft be received in payment of a debt. (T. D.; January 5, 1865.)

**Stamps**—Continued.

**Checks unstamped.**

Checks issued without a stamp being affixt and canceled at the time of issue are invalid. (T. D.; January 5, 1865.)

**Conveyance tax.**

The stamp affixt to a deed of conveyance must be appropriate to the full value of the estate conveyed. If the conveyance be a deed of gift, or other conveyance of title made without a valuable and adequate consideration, it is not subject to stamp duty, but confers a succession and is subject to tax. (T. D.; January 5, 1865.)

**Stamp legalization.**

Any instrument requiring a stamp may be stamped by either party to the same prior to its execution, the party affixing the stamp canceling the same. (T. D.; January 5, 1865.)

**Acknowledgment of receipt.**

A letter, acknowledging the receipt of a note of three months, having no legal value, does not require a stamp. (T. D.; January 5, 1865.)

**Licenses.**

**Dealers in boilers.**

Dealers in boilers, pipes, etc., who purchase such articles and merely fit them for their specific uses, are not taxable as manufacturers under the act of June 30, 1864. If, however, they engage in repairing such articles for sale, they must procure a manufacturer's license. (T. D.; January 5, 1865.)

**Selling patent rights.**

Persons who make it a business to sell patent rights must take out a license, a patentee who sells a patent right, occasionally, or an interest in the same, is not required to take a license for the purpose. (T. D.; January 5, 1865.)

**License as conveyancer.**

A person who merely receives acknowledgments of deeds is not repuired to procure license as a conveyancer. Any person whose business it is to draw deeds for pay is held to be a conveyancer and liable to license tax, even if he does not make the drawing of deeds his exclusive business. (T. D.; January 5 1865.)

**License as auctioneer.**

Unless a person makes a business of auctioneering, he is not liable for license tax, but he must pay tax on wbatever sales that he may make at auction. (T. D.; January 5, 1865.)

**License of claim agent.**

All persons who make it a business to prosecute claims against the Government must take out a claim agent's license. (T. D.; January 5, 1865.)

**License of produce broker.**

A person employed by either the day or the season to purchase farm products may take license as a produce broker. It is not necessary, however, that he shall buy and sell on commission to render him liable to broker's tax. (T. D.; January 5, 1865.)

**License for sale of own goods.**

No additional license as a dealer is required for the sale of goods, wares, and merchandise, made and sold by the manufacturer at the place of manufacture, as in the case of brewers. (T. D.; January 5, 1865.)

**Banks.**

**License of National Banks.**

The act of June 30, 1864, requires national banks to take out license as do other banks. (T. D.; January 5, 1865.)

**Banks**—Continued.

**Basis of bank license.**

The entire capital of any bank, whether invested in United States bonds, or in other securities, must be the basis upon which the license tax is assessed. (T. D.; January 5, 1865.)

**Exchange.**

**Buying and selling exchange.**

Under the act of June 30, 1864, all persons engaged in buying and selling foreign exchange, not on commission but as a business, and drawing bills of exchange against any foreign house, or shipping goods to that house as consignees to meet the bill of exchange, are subject to license tax as dealers. If, however, they draw no bills themselves but traffic merely in the bills of others (not on commission), they are not liable to license tax. (T. D.; January 5, 1865.)

**Exchange returns.**

Returns of exchange should be made and taxes assessed upon the basis of the currency in which the taxes themselves are assessed. (T. D.; January 5, 1865.)

**Photographs.**

Photograph pictures, when too small for stamps, require to pay an ad valorem duty. (T. D.; January 5, 1865.)

**Tax on albumenized paper.**

Paper, especially prepared for albumenizing for photographic work, is subject to a tax on its increased value only. But, paper thus prepared, if fitted for various uses prior to being albumenized, must be regarded and taxed as a manufacture. (T. D.; January 5, 1865.)

**Railroad repairs.**

Railroad companies, when engaged in manufacturing or repairing cars, engines, etc., for their roads, are subject to tax as manufacturers. (T. D.; January 5, 1865.)

**Tax on wool dealers.**

Buyers of wool on commission, tho they make no sales, are liable to a tax as produce brokers. If they sell wool on commission and their sales exceed $10,000 per year, they must procure license as commercial brokers. Where a person buys and sells, or simply sells (not on commission), he is liable to either a wholesale or a retail dealer's license. (T. D.; January 5, 1865.)

**Successions and legacies.**

**Succession.**

Under section 123, act of June 30, 1864, where real estate shall, at or after the passage of said act, be subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person upon the extinction or determination of such charge, estate, or interest, shall be regarded as a succession accruing to the person then entitled, beneficially to the real estate or income thereof, as in the case of a brother-in-law. (T. D.; January 5, 1865.)

**Legacy tax.**

All legacies, the entire value of which amounts to $1,000, or exceeds that sum, are liable to tax under the revenue law. (T. D.; January 5, 1865.)

**Legacies under the old and new law.**

Personal property, as legacy, must be taxed in accordance with the law under which it passes to the legatee. (T. D.; January 5, 1865.)

**Cigars and reinspection.**

Where cigars have been packed, labeled, and stamped, the packages can not be broken, nor the cigars either repacked or divested of the stamp affixt to the boxes or packages, while in the custody of the manufacturer, without liability to reinspection. (T. D.; January 5, 1865.)

**Boats and vessels.**

**Canal boats.**

Canal boats are included in the term "vessels" and, when used for the transport of passengers, furnishing food and lodging, they are required to take license. (T. D.; January 5, 1865.)

**Tax on gross receipts.**

Boats that are chartered by the Government are not required to pay tax on gross receipts. The towing of boats and rafts is not considered as transportation, is not taxed on gross receipts, nor is a monthly return required. The profits from these sources are to be returned as income. (T. D.; January 5, 1865.)

**Lye, concentrated.**

The preparation of concentrated lye is liable to a tax as a manufacture. (T. D.; January 5, 1865.)

**Tax on owners of vessels.**

Persons, firms, companies, or corporations owning, possessing, or having the management of any ship or vessel, etc., are liable to tax on the gross receipts of the same, but unless the consignees are owners they are not liable under the law to such tax. (T. D.; January 5, 1865.)

**Manufactures.**

**Manufacture defined.**

Whatever is made for sale in such a state or condition that it commands purchasers or has a demand in the market is held under the law to be a manufacture subject to taxation unless specially exempted by the statute. (J. D.; January 5, 1865.)

The process of refining saltpeter is liable to tax on the increased value of the article. (T. D.; January 5, 1865.)

**Tax on yarns.**

Yarns, threads, and warps for weaving are subject to a duty of 5 per cent ad valorem, for whatever purposes designed. But if the yarns are woven into tapes for hoop skirts, and not fit for other use, the product will be exempt from tax, excepting the yarn. (T. D.; January 5, 1865.)

**Gas-fitters' exemption.**

Gas fitters and plumbers are not liable to tax for merely setting up water, gas, or steam pipes, basins, etc (T. D.; January 5. 1865.)

**Iron castings.**

All castings exceeding 10 pounds in weight are subject to a tax of $3 per ton, even if the article for which they are made pays an ad valorem duty. Castings less than 10 pounds weight are taxed as manufactures of iron. A casting made by a manufacturer for a machine which he is constructing is taxed in the finished manufacture only. (T. D.; January 5, 1865.)

**Cotton and sugar.**

Ginning of cotton is not taxable as a manufacture; but the making of sugar from cane is held to be a manufacture and is liable to a manufacturer's tax. (T. D.; January 5 1865.)

**Sorghum tax.**

Sorghum molasses, or cider made upon commission from materials furnished by another, the manufacturer operating the mill, whether as owner or lessee, is subject to the duties upon the product without the exemption of $600, but has a lien upon the product for the tax under section 83, act of June 30, 1864 (sec. 95). (T. D.; January 5, 1865.)

**Tax on the boiler of an engine.**

The boiler of an engine is regarded as a separate manufacture and is liable to a duty of 5 per cent, whereas the entire machine, including the boiler, is taxable at 3 per cent. The fact that in a given case the engine is attached to and directly over and above the boiler, bolted or riveted to it, does not make it any less a boiler nor exempt it from the foregoing rate of taxation. (T. D.; January 26, 1865.)

**Receipts for payments of money.**

All receipts for the payment of any sum of money, or for the payment of any debt due, exceeding $20, or for the delivery of any property, are liable to stamp tax, excepting receipts for the satisfaction of any mortgage or judgment or decree of court, which are alike exempt. (T. D.; January 20, 1865.)

**Stamps on receipt for payments of money.**

Stamps due on receipts for payments of money exceeding $20 in amount include receipts for salaries or pay on pay rolls of companies or individuals or corporations or for dividends or interest on the books of banks or other trust companies, signed by the person receiving it or by his authority, whether written with ink or pencil or either printed or stamped on the instrument. (T. D.; January 20, 1865.)

**Credits not signed, nontaxable.**

A credit given on an account or pass book or on a bill without a signature is not a receipt, and therefore is not liable to stamp tax. (T. D.; January 20,1865.)

**Section 151, as to etamp tax.**

Section 151, act of June 30, 1864, imposes the stamp tax on the person signing, making, or issuing the instrument, or upon the person for whose use the instrument is made. The imposition of the stamp is necessary to the validity of the instrument. (T. D.; January 20, 1865.)

**Regulatione establishing bonded warehouses.**

The secretary of the treasury issues regulations for the establishment of bonded warehouses, for which provision was made in sections 60, 61, and 90 of the act of June 30, 1864, and for the entry, withdrawal, transportation, and exportation of merchandise deposited in said warehouses. (T. D.; July 28, 1864.)

**License controls locality of district.**

The tax imposed on the gross receipts of hackmen and truckmen in New York and other cities should be returned from the district for which the license is granted to do business, the charge for housing and unhousing goods being included in the taxable gross receipts, regardless of the hackman's or the truckman's place of residence. (T. D.; January 31, 1865.)

**Manufacturers' tax.**

Manufacturers are liable to tax on the various materials, such as castings, separately entering into the finished product, as well as upon the sales of the finished article itself, where the finished product is only the aggregation of articles in themselves liable to tax under the act of June 30, 1864. (T. D.; January 31, 1865.)

**Tax on carriage manufacturers.**

In regard to the mode of assessing the tax on carriages, it is held that a carriage sold before being lined, trimmed, or painted, if the tax has been assessed upon it in that state, would be liable on its increased value when it is afterwards lined, trimmed, or painted. When a manufacturer makes all the different parts of a carriage, he is to be assessed upon its entire value, less any deduction that may be allowable under section 86, act of June 30, 1864. If a manufacturer makes all the materials that enter into the making of a carriage, he must pay an excise tax upon such materials as tho he sold them to another manufacturer. (T. D.; November 28, 1864.)

**Payment of drawback.**

When drawback is claimed on exportations to which stamps have been affixed, the collector of internal revenue will, upon satisfactory evidence showing the payment of tax, issue his certificate (Form E) to suit the circumstances of each case. The Government can pay back only what it has received. (T. D.; February 10, 1865.)

**Livery stable keepers—Gross receipts.**

It is held under the law that the vehicles of livery-stable keepers are exempt from the tax on gross receipts, inasmuch as, from the manner in which such vehicles are ordinarily hired, the control of them passes in fact to the person hiring them. Therefore, the money paid for the use is not considered as hire for transportation, but as rental of the vehicle. When, however, the owner of the vehicle engages to transport any person or property to a specified destination, retaining control of the vehicle, the tax on gross receipts is due. (T. D.; February 7, 1865.)

**Tax on pianos.**

Pianos are taxable as furniture, and the tax accrues when the instrument is sold or removed for sale or use. When rented out by the manufacturer, they must be returned for taxation at the market value, and when sold the returns must be made on the basis of actual sale. This rule, however, can not be used to embrace the hardware or other taxed materials used in the construction of pianos. (T. D.; February 9, 1865.)

**Tax deduction on pianos.**

When a piano which has been returned for taxation upon delivery made in pursuance of a conditional sale is returned to the manufacturer, thereby showing that a sale was not actually made, if the sale has been returned to the assessor, the manufacturer may be allowed to deduct the amount thus returned from his monthly return. But no deduction can be allowed from the taxes paid on pianos removed for mere use or hire. (T. D.; February 9, 1865.)

**Bank returns and tax deductions.**

The tax on bank surplus and tax reduction on taxable net gains are governed as follows:

1. Only such losses as actually occur during the period for which the return is made should be allowed to reduce the taxable gains for that period. Therefore, the deduction of paper that was worthless prior to the commencement of said period is erroneous.
2. Only the amount of tax that has once been paid on that portion of the surplus fund which was taken to complete a former dividend can be deducted from the amount of tax due; and no amount taken from the surplus to complete a dividend without paying tax can be exempt from tax on surplus. (T. D.; February 2, 1865.)

**Publisher's tax.**

The publisher of a newspaper is held to be liable to take out a license as a dealer under paragraph 2 or 3 (according to the amount of his sales) of section 79, act of June 30, 1864. Section 96, act of June 30, 1864, exempts newspapers from an excise tax. (T. D.; February 20, 1865.)

**Papers and property lost.**

Disbursing officers who lose their papers by fire, capture, or otherwise without fault on their part should at once make in triplicate, under oath, a statement of such loss, detailing the circumstances under which it occurred and verifying it by a certificate of other commissioned officers or by affidavits of credible witnesses. Upon this statement the accounting officers of the Treasury may delay action in the premises, but final relief can be obtained only through Congressional action. (T. D.; February 20, 1865.)

**Officers losing clothing, etc.**

Officers, who are charged with the duty of issuing clothing and other supplies, are required, in case of deficiency on final settlement, to show by one or more depositions, satisfactory to the Secretary of War, that said deficiency was caused by unavoidable accident, or was occasioned in actual service without fault on their part. Otherwise, the deficiency, or damage, actually sustained, will be charged against their monthly pay, in pursuance of section 3, act of May 18, 1826. (T. D.; February 20, 1865.)

**Tax on stair building.**

Stair building is made a specialty in all cities, and there is the same reason for taxing stair railing, posts, balusters, balustrades, etc., that there is for taxing doors, blinds, or sashes; and assessors are expressly directed to assess these articles. (T. D.; February 20, 1865.)

**Gross receipts on transportation.**

Transportation companies are not authorized to deduct commissions paid for collecting the freight or fare, the tax being upon the gross receipts, and commissions received for the collection of freight or fare are not receipts for transportation of either goods or passengers, and consequently are not taxable under section 103, act of June 30, 1864. (T. D.; February 20, 1865.)

**Chocolate drops as confectionery.**

Chocolate drops are held to be confectionery and taxable as such under the amendatory act of March 3, 1863. (T. D.; February 20, 1865.)

**Tax on certified checks.**

The amount of certified checks outstanding from a bank at the close of a business day must be considered as so much taxable circulation under the act of June 30, 1864. The term "close of the day" must be understood in its ordinary sense, entirely disconnected from operations to be made at the clearing house the succeeding morning. (T. D.; January 13, 1865.)

**Brokers liability to license tax.**

As to the liability of brokers to license tax it is *held:*

1. That a person or firm can buy stocks, bonds, or specie for other parties without being licensed, unless he makes a business of the same; but, if a person sells, or offers to sell, any merchandise, etc., not bona fide, at the time his own property, and not being licensed, he is liable to tax on such sales additional to that of a broker.
2. A person or firm can purchase on their own account, and with their own funds, and sell in the same way without a license and without being liable to tax on such sales.
3. A person who merely negotiates the preliminaries of a sale, without closing a bargain, is not liable to tax on such sales, if there be a principal who is liable for the same.
4. A person who lends money on stocks, bonds, or species, can not sell the same on account of the borrower without paying tax, under section 99, or proviso thereto, act of June 30, 1864.
5. One bank can not sell for another, without paying tax on the sales; and banks must take license to cover all the capital they employ. (T. D.; December 14, 1864.)

**Manufactures.**

**Tax on salt as manufacture.**

It is held that salt when cleansed, ground, and otherwise prepared for table use is liabled to be taxed 5 per cent, under section 95, act of June 30, 1864, which provides for taxing manufactured articles, goods, wares, and merchandise on which an excise or import duty has been paid when they are subjected to different processes, in order to fit them for use. (T. D.; January 14, 1865.)

**Tax on pianofortes.**

Whenever the assessor or assistant assessor of a district, where the parts of a piano have been increased in value by being more completely finished, is satisfied that the same have been returned for revenue tax, such pianos should be assessed a tax of 5 per cent ad valorem upon the increased value only, to be ascertained by deducting from the value of the finished pianos, when sold or removed for sale, etc., the cost prior to the last manufacture of the parts previously returned. (T. D.; January 14, 1865.)

**Tarred-paper tax.**

Sheathing paper, whether dry or tarred, is liable to tax. When sold in a dry state it is taxable at 3 per cent. If, after having been purchased, it is tarred by other persons, it is taxable at the rate of 5 per cent on its increased value, under section 95, act of June 30, 1864. (T. D.; January 14, 1865.)

**Taxation of wills.**

Where a will devises the real estate to the executors in trust for specific purposes, or directs the sale of the real estate, or subjects to the payment of debts, the value of the estate must be included as a basis for the estimate of the stamp tax. When, in the absence of a will, the administrator has, under the State laws, a duty to perform in regard to real estate, the same rule applies. It is otherwise, when the personal estate only can come under the administrator's authority. (T. D.; January 14, 1865.)

**Securities of State and city.**

The securities of a State or of a city are exempt from stamp tax under the act of June 30, 1864. (T. D.; January 14, 1865.)

**Hire and gross receipts.**

Hire-money, when paid for transportation, is liable to tax on gross receipts, whether the carrier be or be not only a part owner of either the vehicle or other property used in the transportation. Carriers using wheel carriages, if guilty of default or of fraud, may be prosecuted under section 14, act of June 30, 1864. (T. D.; January 14, 1865.)

**Tax on marine engines, etc.**

In assessing marine engines, the tax is imposed on the engine and the boiler separately, the engine at the rate of 3, and the boiler at the rate of 5 per cent, ad valorem. Locomotives are taxable at their full value, notwithstanding the fact that the wheels, axles, tires, springs, castings, etc., have each been previously taxed. Almost every other complex machine or instrument is taxed in the same way. (T. D.; January 14, 1865.)

**Tax on railroad companies.**

The returns of railroad companies on interest on money and rents of buildings are not made as gross receipts under section 103, but are embraced in the returns that are required to be made in conformity with section 122, act of June 30, 1864. (T. D.; January 14,1865.)

**Manufacturer of cigars.**

The owner of the material used in the manufacture of cigars, and not the persons employed to make them, is held to be the manufacturer and is responsible for the payment of the taxes that are assessable on the cigars. The cigars, tho the labor of making them be done elsewhere, may be removed to the manufacturer's place of business, there inspected, and the necessary stamps affixt. (T. D.; January 14, 1865.)

**License of claim agents.**

Persons who prosecute claims against the Government in any of the Executive Departments require license, whether in the prosecution of such claims they correspond directly with the Department or thru another claim agent. (T. D.; January 14, 1865.)

**License of butchers.**

Persons who make it a business to sell meat at retail or by the carcass must take license as produce brokers, unless holding license as a broker, wholesale or retail dealer. If the sales of such persons exceed $10,000 annually, and if made at one place of business, they will be covered by a retail dealer's license. If sales exceed $25,000 annually, they require a wholesale dealer's license. If the sales are made at various places, a commercial broker's license is required. (T. D.; March 6, 1865.)

**Printer's and binder's work.**

In regard to the business of job printing and binding, it is held that—

1. The stationer who receives and executes an order for printing is held to be a manufacturer and liable as such to tax, the persons who rule the paper and do the binding being merely his employees.
2. The lithographer is liable to tax on his work, and the printer who prints the transfer on the back of lithographed certificates is taxable on the increased value minus the cost of lithographing.
3. The printed cover of a book is taxable only as a part of the value of the book itself. Photographic "mounts" are a manufacture, and the printer who prints the photographer's name and address on the back, to finish and fit them for use, is taxable on the increased value. (T. D.; March 6, 1865.)

**Tax on official salary.**

The Comptroller of the Treasury holds that the salary of an officer, prescribed by law, is the basis of taxation, $50 per month being exempt. Penalties or stoppages should be deducted from amount liable to tax. (T. D.; March 6, 1865.)

**Licenses of brokers and bankers.**

In regard to taxes due for the licenses of brokers and bankers, under section 80, act of June 30, 1864, it is held that persons doing business in either May or June, 1864, and continuing such business after that date are held liable from that date to the highest rate of license under either the old or the new law. Changing the name of a business does not affect a person's liability to license tax. (T. D.; January 9,1865.)

**Deduction from banker's assessment.**

Bankers who have conducted business under a broker's license in May or June, 1864, and continued the banking business after June 30, are entitled to have the amount due to the end of their license as brokers deducted from their license as bankers. (T. D.; January 9, 1865.)

**Income taxes.**

A person owning his dwelling may deduct from his taxable income the rental paid by him for another house which he occupies temporarily in another district; and where a party died in 1863 that portion of income which accrued after his death belongs to the heirs, and is assessible to them or their guardians, executors, etc. (T. D.; March 1, 1865.)

**Income deductions.**

Where improper deductions have been made from income and knowingly allowed by the assessor the errors can not be corrected after payment of the tax. But understatements of income may be increased whenever ascertained and a reassessment made in conformity with the law, and in cases of fraud prosecution should follow under section 14, act of June 30, 1864. (T. D.; March 1, 1865.)

**Undivided profits.**

All income was taxable under the acts of 1862 and 1863, save and except such deductions as the $600 exemption. But the undivided profits of manufacturing corporations were not exempted, and an assessment of such profits should be made wherever there were such during 1862 and 1863, but which have not been taxed. (T. D.; March 1, 1865.)

**Bank capital and deposits.**

The capital and deposits of State banks are taxable to the date of conversion into national banks, when they become taxable as capital and deposits of national banks under section 41 of the "currency act." When the conversion occurs other than at the beginning of the month the returns should be made for the fractional part of the month. Decision 152 relates to liabilities of such banks on outstanding circulation of State banks. (T. D.; March 9, 1865.)

**Nontaxable receipts.**

Receipts for notes to be collected or other evidences of indebtedness are not liable to stamp tax, being merely evidences of property or of an amount of money to be paid. (T. D.; January 9, 1865.)

**Transportation of coal.**

Coal dealers who transport coal to their customers are exempt from tax on gross receipts for such transportation, whether the price for delivery is included with the price of the coal or charged as a separate item. (T. D.; January 9, 1865.)

**Ownership taxable.**

Persons who own or have control of carts employed in the transportation of coal belonging to other persons are liable to tax on gross receipts, but may be exempted wholly or in part where the loading can be considered the principal portion of the labor. (T. D.; January 9, 1865.)

**Express receipts tax.**

By provision of the act of March 3, 1865, express companies are not required to stamp receipts on nor after April 1, 1865, but the act does not release them from the requirement prior to that date. Assessors of tax are instructed to report promptly to the collector for prosecution all violations of the statute. (T. D.; March 16, 1865.)

**Artificial limbs taxable.**

The act of June 30, 1864, does not provide for the exemption of artificial limbs from taxation, but section 94 of that act explicitly declares that "on all manufactures of cotton, wool, wood, etc., wholly or in part, or of other materials not in this act otherwise provided for," a tax of 5 per cent ad valorem shall be paid. Under this section it is held that artificial limbs are a manufacture, subject to tax. (T. D.; March 10, 1865.)

**Sawing marble, stone, etc.**

It is held that under sections 94 and 96, act of June 30, 1864, the sawing of marble, slate, or other stone blocks into slabs is not a manufacture, and therefore is not liable to taxation. (T. D.; March 10, 1865.)

**Broker's tax—Dealers' liability to license.**

A broker who does not complete a sale is not liable to tax on such sale, but the person who does complete the sale, whether the dealer who owns the goods or some other person, is liable to the tax. Where a dealer has agreed to deliver all goods for which sales may be negotiated by a broker the broker is liable to tax on all sales of such goods so far completed by him that the dealer has no part in the transaction except to deliver the goods and receive the money. (T. D.; March 16, 1865.)

**Tax on imported matches.**

In pursuance of section 2, act of March 3, 1865, it is held that lucifer and friction matches exposed to sale without being stamped are liable to seizure, notwithstanding their importation from Canada or from other foreign countries and their sale in original packages. (T. D.; March 13, 1865.)

**Tax on iron vaults or safes.**

It is held that iron vaults or safes built into different buildings as fixtures should be taxed on the contract price, less the cost of fitting, adjusting, or setting into the building. Locks and safes are subject to assessment on repairs when such repairs increase their value 10 per cent and upward. (T. D.; March 6, 1865.)

**Farmers' income tax.**

The act of June 30, 1864, requires the whole amount of produce sold by a farmer within the year to be returned as income for the year. The fact that any part of such produce was raised and taxed as income the previous year does not exempt it when sold. (T. D.; March 13, 1865.)

**Assessors' authority.**

The powers or duties of an assessor are deemed incompatible with those of a collector. An assessor has no authority under the law to make seizures of property, and in so doing would be as much of a trespasser as any private or unauthorized person. Officers of the revenue must not assume powers not given them by law. (T. D.; March 21, 1865.)

**Tax on sign painting—Increased value.**

Sign painting, where it gives the article, goods, etc., increased value is liable to a tax of 5 per cent under section 95, act of June 30, 1864. The painting of a house, however, not increasing the value of a manufactured article, is not taxable. (T. D.; February 18, 1865.)

**Exemption under section 93.**

Persons or firms engaged in the manufacture of any goods, wares, merchandise, or other articles, and are also engaged in the manual labor or oversight of machinery necessary in the production of such goods, are entitled to exemption upon conditions named in section 93, act of June 30, 1864, though apprentices and journeymen are employed. (T. D.; March 29, 1865.)

**Income of army and naval officers.**

Army and Naval officers can not be allowed to deduct from their income the expense of servant hire, nor of fuel, unless the fuel be used in conducting business. They may deduct house rent, as may other persons. Prize money must be accounted as income. (T. D.; March 29, 1865.)

**Affidavit to chattel mortgage.**

Where by State law a chattel mortgage requires an affidavit showing that the debt is secured as a just one, etc., the affidavit, being a part of the mortgage, is exempt from tax, being covered by the stamp on the mortgage. A mortgage for less than $100 is exempt. (T. D.; March 29, 1865.)

**Bankers' license.**

Bankers' licenses should begin at the time of beginning business up to May 1, 1865, in accordance with the amount of capital. If the amount of capital be increased there should be a reassessment of the license from the date thereof to May 1, 1865. (T. D.; March 29, 1865.)

**Bills of assistant assessors.**

Assistant assessors' bills for services, when sworn to before a justice of the peace, require no certificate of any other officer that such a person is a justice or notary. The rule as to bills for stationery is different. An oath taken before a notary under notarial seal, does not require a certificate. (T. D.; March 29, 1865.)

**Deductions to be specified.**

Assessors not only have the power but it is their duty to disallow claims for deductions entered in the column headed "other expenses," unless the items of such expenses are specified on the face of the returns, if the assessor fears that they can not be legally allowed. (T. D.; March 29, 1865.)

**Forfeiture of cigars.**

Cigars need not be stamped so long as they remain in the hands of the owner or manufacturer, but when sold, without stamp, they are subject to forfeiture and seizure. The commission of the offense makes an absolute forfeiture, and the cigars may be sold at once for the benefit of the Government. (T. D.; March 29, 1865.)

**Deductions of freight charges.**

A manufacturer, making returns of taxable receipts, is entitled to deduct the freight from his place of manufacture to the place of delivery. See decision 144. (T. D.; March 29, 1865.)

**Succession tax.**

A successor is not liable to succession taxes until he comes into possession; and where he comes into possession of part of a succession he is liable on that part only, until the charge on his succession determines when he is liable to the tax on increased value under section 137, act June 30, 1864. (T. D.; March 29, 1865.)

**Tax on son's inheritance.**

Under the act of June 30, 1864, when a son inherits two-thirds of certain real estate and the widow her dower, being the remainder, or a life interest therein, the widow is liable to succession tax upon her life interest. The son, if in possession of two-thirds of the estate, must pay succession tax immediately on so much, and, in case of the widow's death, on the increase of benefit, under section 128, act of June 30, 1864. (T. D.; March 29, 1865.)

**Tax on successions.**

Taxes on successions to estates, in whole or in part, may be treated under section 143, by compounding, or under section 146 by separate assessments, under the act of June 30, 1864. (T. D.; March 29, 1865.)

**Dyeing and repairing wearing apparel.**

Persons engaged in the business of dyeing and repairing cloths, or fabrics, printed, bleached, etc., are subject to the additional tax of 5 per cent on increased value; while garments or articles of wearing apparel, colored, etc., are subject to tax under the clause of section 94, act of June 30, 1864, providing for taxing repairs, when the increased value is 10 per cent and upward. In both cases persons are required to take license as manufacturers, under paragraph 31, section 79, act of June 30, 1864. (T. D.; March 29, 1865.)

**Tax on castings.**

Castings exceeding 10 pounds in weight, whether intended for a bridge or other permanent structure, or for a steam engine, a locomotive, a boiler, a car, a mowing machine, a fanning mill or any other instrument, article, or machine is liable to a tax of $3 or $6 per ton according as it is made, whether of taxed or untaxed material; and it is equally liable to the tax when the person who makes the casting uses it in the construction of any of the aforementioned articles as when he sells it to another for the same purpose. (T. D.; February 15, 1865.)

**Castings less than 10 pounds.**

Castings less than 10 pounds in weight are not expressly taxed under any special provision, but it is held that they are included under the general provision of section 94, act of June 30, 1864, and subject to an ad valorem tax of 5 per cent, as manufactures not otherwise provided for. (T. D.; February 15, 1865.)

**Tax on manufacturers of clothing.**

Decision 142 reaffirmed, holding that the owner of the material, who cuts from it shirts, clothing, etc., which are sent to sewing women to make them up and return them to him for sale, is the manufacturer, subject to tax under the act of June 30, 1864. (T. D.; February 25, 1865.)

**Tax on photographs.**

All photographs, printed from the original negative as taken from the person or object represented, are properly held to be liable to stamp tax. (T. D.; February 23, 1865.)

**Omitting use of stamps.**

In cases where photographers are allowed to omit the use of stamps on pictures which would be injured, or lessened in value, by stamping, they are required to make a sworn statement monthly showing the number and value of pictures sold, and accompanied by a sufficient number of proprietary stamps, canceled, covering the amount of tax due. (T. D.; February 23, 1865.)

**Tax on broker's sales.**

A sale of goods by a merchant through a broker is to be included in determining the amount of his license and must be returned by the broker for tax under section 99. A sale made by an auctioneer must also be included in determining the rate of the dealer's license, and the auctioneer is taxable under section 77, act of June 30, 1864. (T. D.; February 23, 1865.)

**Consignor and commission merchant.**

Neither a consignor's nor a commission merchant's sales are taxable under section 99, act of June 30, 1864, unless the commission merchant is doing business as a commercial broker, and not as a dealer. (T. D.; June 30, 1865.)

**Manufacturer's returns.**

In a circular letter addressed by the Commissioner of Internal Revenue to the assessors in large manufacturing districts, condemnation is expressed regarding the practice, adopted by manufacturers, of returning their goods at a stated value and then charging the tax as a separate item to the purchaser's account. This practice not only imposes the tax indirectly on the consumer, but directly defrauds the Government of a part of its dues, insomuch as the law imposes a tax on the actual sale, which is necessarily inclusive of a tax. (T. D.; February 16, 1865.)

**Returns of tax.**

Construing section 16, act of March 3, 1865, relating to the time when returns ought to be made, it is held that the law directs the returns to be made at certain specified times covering regular periods, but the taxes returned at such times may accrue at any time during that period. The act of March 3, 1865, is merely amendatory of the act of June 30, 1864, and only changes the time of return and assessment, and the rate of tax in certain cases. (T. D.; March 27, 1865.)

**Regulations for the inspection of tobacco, etc.**

The commissioner issues Circular 27 prescribing regulations for the inspection of tobacco, snuff, and cigars in pursuance of section 91, act of June 30, 1864, as amended by the act of March 3, 1865, providing that all manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, shall, before the same is used or removed for consumption, be inspected or weighed by an inspector who shall mark or fix a stamp upon the box or package containing such tobacco, snuff, or cigars, in a manner to be prescribed by the Commissioner of Internal Revenue, denoting the kind or form of tobacco and the weight of such package, with the date of inspection and the name of the inspector. (T. D.; March 30, 1865.)

**Bond of tobacco inspectors.**

The amendatory act of March 3, 1865, requires inspectors of tobacco, snuff, and cigars to give a bond for the faithful performance of all duties to which they may be assigned and to return or account for all stamps which may be placed in their hands. (T. D.; March 30, 1865.)

**Losses and income.**

It is held that when a loss is sustained in any particular business against which there are no gains to offset, it is considered a dead loss of capital invested in that business, and the parties must as individuals pay their income tax without respect to said loss. (T. D.; March 8, 1865.)

**Duties of assistant assessors.**

Immediately after the first Monday in May assistant assessors should call upon all persons who have failed to make return, and if any such person is found at home or at his usual place of business he must be prepared to furnish the return to the assistant; otherwise he will be liable to assessment with the penalty of 25 per cent. In such case the ten days' notice is not required. If any taxpayer is absent when called upon the ten days' notice must be given, upon the presumption that the return is ready for delivery. (T. D.; March 30, 1865.)

**Broker's tax on 7.30 bonds.**

All sales of Government securities by brokers, whether on their own account or for others, are subject to the taxes imposed by section 99, act of June 30, 1864, upon sales of stocks, bonds, etc., sales of 7.30 bonds being, of course, included and taxable. (T. D.; March 31, 1865.)

**Spools—A manufacture.**

The making of spools which are used in winding and preparing thread for sale by manufacturers is held to be a taxable manufacture, subject to assessment under section 85, act of June 30, 1864. (T. D.; March 31, 1865.)

**Sales of Government securities.**

Bankers and brokers, altho licensed as such, are liable, under section 99, act of June 30, 1864, to tax upon their sales of United States securities. (T. D.; March 31, 1865.)

**Tax on bank investments.**

The tax imposed on the investments of bank capital under section 110, act of June 30, 1864, is not governed by the manner or character of the investment. Capital invested in real estate may be returned at its actual value, without regard to the amount it nominally represents. Paper held by a bank, and classed as "doubtful," can not be considered a loss, and should not be deducted from the taxable capital of a bank until it does become a loss. (T. D.; March 31, 1865.)

**Legacy tax.**

Where the personal estate of a testator is insufficient to pay the legacies named in his will, and it becomes necessary to obtain a license from the probate court to sell real estate in order to supply the deficiency, such license does not avoid liability to legacy tax, and the tax should be levied upon the full amount of the legacies. The ruling of the United States district court for the southern district of Ohio, made January 5, 1865, is contrary to this decision. See Internal Revenue Record, January 21, 1865. (T. D.; March 31, 1865.)

**Tax on patented articles.**

It is held that patented articles, made by manufacturing companies for their own use, with the consent of the patentee, are not exempt from taxation upon the ground that the patentee invented the article and obtained the patent while in the employ of the company. (T. D.; March 31, 1865.)

**Tax on repairs.**

Under section 94, act of June 30, 1864, relating to tax on repairs, the general rule should be that, when the article repaired is a unit, altho made up of taxable parts, the repairs are to be regarded as pertaining to the unit, as to the ship, to the car, to the carriage, to the locomotive. By the ninety-fifth section of the act of June 30, 1864, painting, varnishing, gilding, and various other operations are declared to be manufacturing, and require a manufacturer's license. The question of liability to tax on repairs will be determined by the ratio of increased value to the entire value of the article repaired. (T. D.; April 4, 1865.)

**Tax on manufacturer's returns.**

Manufacturers whose monthly returns exceed $83.33 are liable to tax on their entire monthly products, whereas, when the monthly return exceeds $50, and does not exceed $83.33, the excess above $50 is taxable; but less than $50 is exempt, under the act of June 30, 1864. (T. D.; April 4, 1865.)

**Tax exemption.**

A manufacturer who participates in the manual labor requisite to the production of his goods, wares, and articles is entitled to exemption from tax, in accordance with section 93, act of June 30, 1864, even if he employ the labor of persons outside of his own family. This exemption is intended to afford relief to small manufacturers. (T. D.; April 4, 1865.)

**Income tax on bank dividends.**

Referring to changes in sections 116 and 117, act of June 30, 1864, relating to the tax on income derived from bank dividends, interest upon railroad bonds, etc., it appears that, while the income from these sources was, under said sections, deducted from the gross income of the taxpayer, it is provided by the act of March 3, 1865, that, in ascertaining the income of any person liable to an income tax, the amount of income derived from institutions whose officers, as required by law, withhold a per centum of the dividends and pay the same to the Commissioner, or to other officers authorized to receive it, shall be included; and the amount so included shall be deducted from the tax which would be otherwise assessed upon such person. (T. D.; April 4, 1865.)

**Nontaxable bond sales.**

Bankers and brokers are not taxable on their sales of 7.30 United States bonds when the bonds are the property of the Government, of which they are acting as agents. (T. D.; April 4, 1865.)

**Tax on transportation.**

Under the act of March 3, 1865, no tax is due from cartmen on gross receipts for transportation on and after April 1, where such receipts do not exceed $1,000 per annum. Where there exists a simple contract to transport property or persons to a specified destination, if the control of the vehicle remains with the owner, he is liable to the tax. (T. D.; April 5, 1865.)

**Transportation license.**

Section 79 of the act of March 3, 1865, requires a license of $10 of every person, firm, or company engaged in the carrying or delivery of money, valuable papers, or any article, for pay., etc., where the gross receipts therefor exceed $600 per annum, but unless the receipts exceed $1,000 per annum no tax on gross receipts will accrue. (T. D.; April 7, 1865.)

**License to lottery dealer.**

In compliance with section 1, act of February 3, 1865, amendatory of act of June 30, 1864, the Commissioner, with the approval of the Secretary of the Treasury, makes regulations requiring that, when any lottery or policy dealer desires a license, he shall—

1. Make application in the usual form to the assessor of the district, stating, in addition to other requisite information, the name or names of the manager or managers for whom he acts and their places of business.

2. Before obtaining a license from the collector, he shall present to that officer the bond of the managers, duly executed, in the sum of $1,000, conditioned that the person licensed shall not sell any ticket of such lottery which has not been duly stamped according to law with the name of the vendor of the ticket, and with the date of sale.

3. It shall be the duty of all managers and proprietors of lotteries and their agents to keep just and true books of account, in which shall be entered daily the gross cash receipts of the sales of all lottery tickets or policies made by them or their agents. (T. D.; April 5, 1865.)

**Delinquent taxpayers.**

While the system of internal revenue was new, and many persons were ignorant of its provisions, it was deemed unwise to exact rigorously the penalties for violations of the law, and hence moderation and forbearance were exercised as far as it seemed to be consistent with the general interest. Authority to compromise was given, but only in exceptional cases. Time having thus been allowed to those owing tax to learn their duty under the law, they will now have no right to complain of being dealt with severely, if, when detected in making deliberately false returns, all applications and offers of compromise be rejected, and offenders be committed to the courts for prosecution to the etxent of the law, beginning with the month of May, 1865. (T. D.; April 10, 1865.)

**Returns of bonded goods.**

Previous instructions having been misconstrued, the Commissioner now directs that the returns for the month of April, 1865, and thereafter, on Forms 60 and 61, shall be restricted to merchandise placed in bond, and that spirits and coal oil not placed in bond shall be returned on Forms 58 and 59, a special account of goods in bond being kept in the Bureau of Internal Revenue with each collector. (T. D.; March 30, 1865.)

**Tobacco inspection fee.**

The fee of 5 cents per 100 pounds for the inspection of tobacco, as prescribed in Circular 27, appearing to be too small, it is directed that until otherwise ordered the fee for such inspection be increased to 10 cents per 100 pounds. (T. D.; April 17, 1865.)

**Receipts of express companies.**

The act of February 3, 1865, amendatory of the act of June 30, 1864, exempts from stamp tax the receipts given by express companies upon the delivery to them of goods for transportation. The receipts taken by them upon the delivery of goods are still subject to stamp tax, but this office can not decide that the express company shall pay the tax. If an instrument requiring a stamp is issued without the necessary stamp being affixt and canceled, the maker is liable to the penalty, and the other party loses the benefit of the instrument. (T. D.; April 11, 1865.)

**Tax on playing cards.**

Where a manufacturer of playing cards shall indicate by a mark on the outside of the original package that stamps of a given denomination are affixt to the respective packs therein inclosed, it is held to be inconsistent with the late act of Congress to

**Tax on playing cards**—Continued.

require the imposition of a penalty upon jobbers who may sell such cards in the original and unbroken package so marked by the manufacturer, provided that the price at which the cards are sold is covered by the stamps said to be affixt. (T. D.; April 5, 1865.)

**Stamps must cover price of cards.**

Whenever a package of playing cards is broken and the packs exposed for sale, it will be the duty of the holder to affix whatever additional stamps may be necessary in conformity with the price at which the cards are offered for sale. (T. D.; April 5, 1865.)

**Tax on savings institutions.**

The one hundredth and tenth section, act of June 30, 1864, exempting certain savings banks from tax, was repealed by the amendatory act of February 3, 1865, the repeal being evidently to bring within the operation of the law such savings as had "no capital, and whose business was confined to receiving deposits and loaning the same on interest for the benefit of the depositor only." The manner in which the deposits are made does not affect the liability to tax, it being imposed upon the average amount of deposits of money subject to payment by check or draft. A monthly return is required on Form 67. (T. D.; April 24, 1865.)

**Assessment of banker's license.**

A banker's license is assessed upon the entire amount of capital invested, including the amount invested in a banking house. (T. D.; April 21, 1865.)

**Contracts—Tax under section 97.**

It is held that section 97, act of June 30, 1864, can apply to contracts made prior to that date only. The act of February 3, 1865, contains no provision similar to that, nor any that extends the terms of that section to contracts, made prior to its taking effect, to manufactures to be delivered thereafter. Therefore, the manufacturer of goods under contract can not, without mutual consent, charge upon his goods the taxes imposed by this latter act. (T. D.; April 17, 1865.)

**Druggists' tax.**

Druggists who sell "Schnapps," or Hostetter's Bitters, are required, under the act of June 30, 1864, to take license as either wholesale or retail liquor dealers. (T. D.; January 17, 1865.)

**Regulations of tobacco inspection.**

In conformity to section 91, act of June 30, 1864, as amended by the act of February 3, 1865, regulations are made by the Commissioner in Circular 31 for marking or affixing stamps upon boxes or other packages containing manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, denoting the kind or form of tobacco, the weight of package, the date of inspection, and the name of the inspector. (T. D.; April 21, 1865.)

**Tax on wines and manufactured liquors.**

Under date of April 6, 1865, in conformity with provisions of the act of June 30, 1864, and of the amendatory act approved February 3, 1865, the Commissioner issued Circular No. 29, setting forth regulations with regard to the tax on wines and manufactured liquors. It is held that the leaching or redistillation of raw spirits does not make the product liable to any additional excise tax, but every distiller, brewer, rectifier, or other person who manufactures liquors for sale under the assumed name of brandy, gin, rum, Bourbon, or any other assumed name, shall pay thereon an ad valorem tax of 6 per cent, under the provisions of the ninety-fourth section, act of June 30, 1864. (T. D.; April 6, 1865.)

**Accounts of Collectors.**

In pursuance of the amendment to the act of June 30, 1864, relating to commissions, which took effect April 1, 1865, the Commissioner issues Circular No. 13, setting forth the method in computing commissions for the fiscal year ending June 30, 1865, and concerning the accounts of collectors. It is held that the accounts of collectors should be closed as far as possible by the 30th of June, showing all outstanding bills and the balance of cash on hand. (T. D.; April 24, 1865.)

**Taxation on profits of stock sales.**

The law makes a distinction between profits on sales of stocks and profits on sales of real estate, the distinction relating to the day of purchase. Under the last proviso of section 116, act of June 30, 1864, the only taxable profits on sales of real estate accrue when the estate was purchased within the year for which the income was estimated. The law contains no limitation on the sales of stocks. Such profits are held liable, without reference to the time of purchase. (T. D.; April 22, 1865.)

**Government supplies free of tax.**

The Secretary of the Treasury prescribed, under date of April 7, 1865, the necessary regulations and, accordingly, the Commissioner of Internal Revenue issued circular No. 30, for the enforcement of section 17, act of March 3, 1865, providing that the privilege of purchasing supplies of goods imported from foreign countries for the use of the Government, duty free, shall be extended under regulations of the Treasury to all articles of domestic production that are subject to tax under that statute, whether articles stored or not stored in bonded warehouses. (T. D.; April 7, 1865.)

**Farmer's income tax.**

Returns of farmers for income tax allow that usual and ordinary repairs may be deducted from income, the amount deducted not to exceed the average paid out for such expenses during five preceding years. Expenses for permanent improvements or betterments made to increase the value of any property or estate can not be deducted. If a farmer buys stock in 1862 for $500 and sells the same for $1,000 in 1864, he must return the sum of $500 as profit on such sale. (T. D.; April 21, 1865.)

**Tax on metals and articles made therefrom.**

In a decision referring to the tax on iron, copper, lead, spelter, and brass, and articles manufactured therefrom, it is held under the several clauses of section 94, act of June 30, 1864, as amended by the act of February 3, 1865, that whenever a manufacturer reduces iron or other metal from the ore or advances it from one of the primary forms to a more advanced state, and afterwards uses or consumes the same in the production of manufactured articles, he is liable to pay the same tax thereon as if he removed it for sale. (T. D.; April 21, 1865.)

**Dividends on corporate shares taxable.**

Dividends declared on shares of stock in telegraph and express companies, whether paid in cash or in additional shares of stock, are liable to tax and must be included in returns of income. Dividends, when increased by the increased value of stock, are taxable to the extent of the increase. (T. D.; May 8, 1865.)

**Stamps on photographs.**

Congress having failed to take action in conformity with the Commissioner's recommendation and approving his order favoring the omission of stamps from such pictures as would be materially injured and sale prevented by affixing stamps, provided that photographers affixed to their monthly returns such number of stamps as would have been required for stamping the pictures, the order on the subject is revoked, and, in future, photographers are required to stamp their pictures according to law. (T. D.; May 8, 1865.)

**Farmers' income.**

Under the act of July 1, 1862, the annual income tax returns required of farmers for 1862 and 1863 were based upon the entire crop harvested. This requirement was modified by the act of June 30, 1864, whereby the returns for the special income tax were based on the amount of produce actually sold. It is true that, in particular cases, hardships will arise under this regulation, from the fact that the practice of farmers is not uniform as to either storing or selling produce, and, in other cases, there may be an escape from a just share of tax. But the same inequality will occasionally occur under any general provision of law. (T. D.; April 7, 1865.)

**Deductions from income tax.**

Profits on sales of real estate are taxable as income only in case the property has been purchased within the year. Profits on a sale of standing timber are returnable without reference to the time the land was bought. The law makes an exception as to profits on the sales of realty, not applicable to the sale of growing timber which becomes personality on severance from land. The income of minors must be returned as the income of fathers, except when received by trustees or guardians. Only one deduction of $600 is allowed to one family. Repairs, interest, taxes, and insurance are deductible from income. (T. D.; May 1, 1865.)

**Excise Law—Sections 95 and 96.**

Construing sections 95 and 96 of the excise law, relating to tax on manufactures, it is held that steam, locomotive, and marine engines, including the boilers and all their parts, are taxed by the act of February 3, 1865, 6 per cent ad valorem, but the material of which they were made must have paid their proper duties. It is not the cost of manufacturing, but the increase of value imparted, which is intended to be taxed by section 96 of that act. (T. D.; April 21, 1865.)

**Orders for printing and printed forms.**

Assessors and collectors are notified that, hereafter, they must apply to the Commissioner of Internal Revenue for permission before procuring any printing to be done or purchasing any blank forms, excepting "stationery," that may be needed for the execution of the internal-revenue laws. This rule was, for a time, practically suspended, but, hereafter, there must be compliance with this instruction. (T. D.; April 29, 1865.)

**Deductions from income.**

All income taxes paid in 1864 are proper deductions from income of that year. Assessements made by municipal corporations for laying out or grading streets, the construction of walks, sewers, etc., may be deducted from income where they are laid upon all taxpayers within the corporation; but, if laid upon the owners of property supposed to be increased in value by the improvement, no deduction can be allowed. All town and county taxes, including taxes assessed for raising soldiers, may be deducted. (T. D.; April 28, 1865.)

**Return notices to taxpayers.**

A formal printed demand on taxpayers to make their returns is required only when the assistant assessor calls for the return after the first Monday in May and does not find the taxpayer at home, such cases being provided for by the notice on the back of blank No. 24. (T. D.; April 26, 1865.)

**Gains and losses as offset.**

Gains in one business can not be offset against losses in another business. Therefore, merchants must make return of their profits from merchandise without regard to their losses in speculation or gains from interest, dividends, rents, or any other source. All gifts that are in the nature of compensation for services rendered, whether made in accordnace with a previous understanding, or with an annual custom, are taxable as income. (T. D.; April 28, 1865.)

**Farmer's returns of income.**

The special instructions, issued by the Commissioner, July 12, 1864, require that farmer's returns, made under the act of June 30, 1864, shall include as income all productions of the farm sold during the year, or consumed by the farmer or his family, or consumed by animals kept for purposes of pleasure. (T. D.; April 27, 1865.)

**Accounts of tobacco manufacturers, etc.**

In pursuance of section 90, act of June 30, 1864, as amended by the act of March 3, 1865, the account to be kept in a book by manufacturers of snuff and tobacco shall be in manner and form as indicated in blank No. 62, issued from the Bureau of Internal Revenue, or in substantial accordance therewith, and the account required by the same section to be kept by manufacturers of cigars shall be, in manner and form, conformable to blank No. 72, or in substantial accordance therewith. (T. D.; May 10, 1865.)

**Deductions from income.**

It is held to have been the design of Congress to allow the deduction of insurance moneys paid and the legitimate expenditures for repairs from any income whatever. The same rule applies to interest paid and taxes. It is held, therefore, that where a party owns unimproved property from which no income is derived, the expenses of repairs, insurance, interest, etc., are deductible from whatever income has accrued. But the expense of hired labor can be deducted from the profits of the business only in which it is employed. (T. D.; May 6, 1865.)

**Nontaxable damages.**

In view of the difficulty of separating vindictive from actual damages, it is held by the Bureau of Internal Revenue that all damages recovered in actions of tort are exempt from income tax. No deduction can be made from income for money paid on the judgment of any court against the taxpayer. (T. D.; May 1, 1865.)

**Deductions of pecuniary losses.**

Losses incurred in one business can not be deducted from gains in any other, nor from salaries, rents, interest, dividends, etc.; therefore, losses in speculation can not be deducted from salaries, nor from gains in merchandise. Where losses are sustained in one speculation and gains made in another speculation, the losses may be deducted from the gains; and losses in one branch of merchandise may be deducted from gains in another branch of merchandise. (T. D.; May 11, 1865.)

**Tax on accumulated profits.**

Where a stock dividend is a division of the accumulated earnings of several years, so much of the amount as is clearly shown to the assessor to be due to the profits of previous years may be omitted from the return, being returnable for those years, provided always that no omission be made for any year subsequent to December 31, 1861, unless the income on such portion of the stock dividend as was due to the earnings of that particular year has been already paid. The said stock should be returned at its par value, if it remain unsold; but, if sold at a greater or less figure than par, the return should correspond thereto. (T. D.; May 18, 1865.)

**Licenses—Liquor dealer's, insurance broker's.**

The license of a liquor dealer will authorize the sale of any other merchandise at the placed named in the license. Persons acting as direct agents of an insurance company for soliciting and surveying risks should be licensed as insurance agents. Persons, however, who act in behalf of parties desiring insurance, require license as insurance brokers. (T. D.; May 11, 1865.)

**Meaning of section 116. Act of '64.**

The following terms of section 116, act of June 30, 1864, viz, "On the excess over $600, and not exceeding $5,000," are construed as meaning but one thing, which is that $600 of an income is exempt from tax, $4,400 liable to 5 per cent, and the remainder to 10 per cent tax. (T. D.; May 6, 1865.)

**Income assessment lists.**

The assessment lists, in which the amounts of taxable income are entered, are by law open to public inspection and may be published if desired; but the details reported on the blank, or given to the assessor, are to be treated as strictly confidential. (T. D.; May 6, 1865.)

**Disappearing books of account.**

The destruction or disappearance of books of account of persons making unsatisfactory returns is a ground of suspicision. It is inconsistent with correct business habits, and in the absence of explanation is prima facie evidence of fraud. (T. D.; May 11, 1865.)

**Manufacturer's income.**

A manufacturer in estimating his income may deduct all taxes paid by him as a manufacturer, whether as taxes or under the head of business expenses. Assessors are required to see that the same amount is not deducted twice. (T. D.; May 9, 1865.)

**Certified checks taxable.**

The law imposes upon banks a tax based on the average amount of circulation, including all certified checks, and all notes and other obligations calculated and intended to circulate as money or "to be used as money," the use of them being to make payments of sums presently due and save the time and expense of carriage from point to point. (T. D.; May 3, 1865.)

**Income of families.**

Acording to the act of March 3, 1865, only one deduction of $600 shall be made from the aggregate incomes of all the members of any one family composed of parents and minor children or husband and wife. If, however, the parties are possessed of incomes, free from the control of another the rate of tax will be determined by each separate income. (T. D.; May 3,1865.)

**Distinctions not allowed by statute.**

In determining the taxable income of families the act of March 3, 1865, contains no distinction between natural parents and parents at law, nor between natural and step chilldren. No rule of distinction can be framed in conflict with the express terms of the statute. Exceptional cases arising under the operation of this rule can obtain relief through Congressional action only. (T. D.; May 3, 1865.)

**Dividend profits.**

Dividends of stock must be returned at their par value, and if afterwards sold at a higher price, the increase also must be returned as taxable income. (T. D.; May 3, 1865.)

**Deduction of taxes from income.**

If stockholders return their actual receipts from dividends, inasmuch as such dividends are necessarily decreased by the amount of taxes paid the State, a deduction of such taxes is thereby really made, and a second deduction, as a separate item, can not be made in returns of income. Wages of a minor, if controlled by the parent, may be included in the parent's income, and taxed, (T. D.; January 13, 1865.)

**Income from banks and companies.**

The act of March 3, 1865, provides that the gains and profits of all companies shall be included in estimating the annual income of any person entitled to the same, whether divided or otherwise. The income tax will then be assessed upon the entire amount, and the tax actually withheld by banks and other companies will be deducted. (T. D.; March 29, 1865.)

**Gift-concert license.**

The promise by proprietors of gift concerts to bestow any article or thing in consideration of the purchase of tickets of admission to any performance does not render them liable for license as proprietors of a gift enterprise. (T. D.; March 31, 1865.)

**License for insurance business.**

A person negotiating insurance and paid by an insurance company is liable for a license as an insurance agent; and where such a person receives compensation from the party in whose behalf he negotiates insurance he must take license as an insurance broker. If compensation for services be paid by both the company and the party insured, he is liable for both insurance agent's license and insurance broker's license. (T. D.; April 6, 1865.)

**Manufactures.**

**Tax on renovated clothing.**

The dyeing of old, soiled, unfashionable garments or articles of dress is held to be repairing, subject to taxation as repairs when the value of the garments is thereby increased 10 per cent. (T. D.; March 24, 1865.)

**Wall-paper tax.**

Wall paper is a manufacture more completely finished and fitted for use and is, therefore, liable to tax upon increased value, and, likewise, the coloring or enameling of paper is taxable, in pursuance of section 95, act of June 30, 1864. (T. D.; March 20, 1865.)

**Manufactures for use or for sale.**

A manufacturer, who either uses or consumes his products which, if sold, would be subject to tax, is liable to pay the same tax upon them as if he sold them. The measure of taxation is the salable value of the article, the rate of tax being 6 per cent ad valorem under the present law. (T. D.; April 5, 1865.)

**Cigars and cheroots on hand.**

It is held that cigars and cheroots which remained on hand in manufacturers' establishments on and after April 1, 1865, are subject to the rates of taxation imposed by the act of March 3, 1865. (T. D.; April 6, 1865.)

**Taxes on spindles as such.**

If a manufacturer makes 1,000 or 10,000 spindles, each equally fitted for any one of the like number of cotton machines, part of which he uses himself in the construction of said machines, part of which he sells, he is liable to tax on all according to the principle laid down in special circular No. 9 and according to the proviso of section 93, act of June 30, 1864, and clause 1, section 94, of the same act. (T. D.; November 26, 1865.)

**Iron—Rivets, nuts, washers, nails.**

Rivets, nuts, washers, and bolts are manufactures of iron and are liable to a specific tax of $5 per ton. The iron from which these articles are made is also liable to a specific tax as material. The tax on iron must be assessed and collected just as much as the tax on the manufactured articles. The payment of tax on the latter does not relieve the former from its appropriate tax. But the rate of tax on the manufactures, rivets, nuts, etc., whether it be $5 or $2 per ton, is contingent upon the amount of tax previously paid on the iron from which it is made. (T. D.; April 12, 1865.)

**Articles in Schedule "A."**

Articles named in Schedule A, act of June 30, 1864, are taxable first to the person keeping or having them in possession, and not to the owner. If, however, the owner keeps the articles, he is the person to be taxed on income. (T. D.; April 25, 1865.)

**Undivided profits.**

The undivided gains of a corporation are liable to tax as income. The persons entitled to the gains must be the stockholders. (See section 117, act of June 30, 1864.) (T. D.; May 3, 1865.)

**Filing manufacturer's notice.**

It is held that, in conformity with section 82, act of June 30, 1864, it is not necessary, where a person or firm continues in the same business, in the same place, that a manufacturer's statement shall be filed annually, at the time of making a new application for license. (T. D.; May 12, 1865.)

**Manufactures**—Continued.

**Tax on tassels.**

The tax on tassels with wooden bodies, when made of thread, yarn, or warp upon which a tax had been paid, is due as a tax on "articles," under the act of March 30, 1865, and such articles are liable to tax on "increased value" thereof. (T. D.; May 17, 1865.)

**Tax on "Expenses of sale."**

The provisions in section 86, excise law, relating to expenses of sale, bona fide, paid, are construed as applicable to extraordinary expenses necessarily connected with sales of some manufactures, and not to the practice of selling thru soliciting agents resorted to by manufacturers. (T. D.; May 6, 1865.)

**Income—Rental value.**

That part of section 117, act of June 30, 1864, relating to the noninclusion of rent and rental value in returns of income, is construed to mean, first, that, where rent is paid, it shall be deducted; and, second, that the rental value of a homestead shall be neither included as income nor deducted therefrom—in other words, such value shall be made of no account. (T. D.; May 12, 1865.)

**Deduction for repairs.**

Where a house has been newly purchased, any expense thereon, if necessarily laid out for improvement thereof, can not be deducted from income. Supposing this expense to be considered as made for repairs, the rule of deducting only the average of repairs for the preceding five years would be of no benefit in its practical operation. (T. D.; May 12, 1865.)

**Peddler's license.**

A peddler's license should be taken out in his own name or be transferred to him by the collector. The application for license may be made by any person or firm in behalf of another person, if such person or firm pay the tax. The name of the person, and his only, should appear on the license. (T. D.; May 13, 1865.)

A peddler's license will cover the business of the person named therein only, and if his license is procured by his employers, who desire to procure the services of some other person in his stead before the expiration of the year, the employers must have the license transferred by the collector. (T. D.; May 18, 1865.)

**Bonds and jurats.**

All bonds and jurats are required to be stamped 5 cents each, as certificates, under the act of June 30, 1864. (T. D.; May 20, 1865.)

**Tax on increased value.**

Section 94, act of June 30, 1864, provides that "on all cloths dyed, etc., on which a duty or tax shall have been paid before the same were so dyed, the said duty or tax of five per centum shall be assessed only on the increased value thereof." It is held, therefore, that cloths which are dyed, and upon which an impost duty has been paid, are liable to tax on the increased value only. (T. D.; May 8, 1865.)

**Income returns—Section 116.**

Construing section 116, act of June 30, 1864, relating to income tax and providing that "on the excess over six hundred and not exceeding five thousand dollars" there shall be levied a tax of 5 per cent, it is held to mean that $600 of an income shall be exempt, $4,400 liable to 5 per cent, and the remainder to 10 per cent tax. (T. D.; May 6, 1865.)

**Broker's sales—Section 99.**

Regarding section 99, act of June 30, 1864, which imposes a tax on the sales of brokers and on bankers doing business as brokers, it is held that where a person is doing business as a commercial broker, and also selling his own merchandise, he acts in two capacities; and if he makes it a business to sell or offer for sale goods on his own

**Broker's sales—Section 99**—Continued.

account he is a dealer, and liable to license tax graduated upon the amount of his sales. Upon his sales as a broker he pays the tax imposed by section 99, while upon his sales as a dealer he pays the license tax imposed by section 79, paragraphs 2 and 3, act of June 30, 1864. (T. D.; May 12, 1865.)

**Income of foreigners exempt.**

It is held, under the act of June 30, 1864, that the fact that income is derived from this country and passes thru the hands of a citizen or resident here can not be regarded as making the recipient, who is both a foreigner and nonresident, liable to the income tax. (T. D.; May 3, 1865.)

**"Family" construed—One exemption of $600.**

The Commissioner of Internal Revenue holds that, under the second proviso of section 116 and the proviso of section 118, act of June 30, 1865, the word "family" should be construed to include not only parents and minor children living under the same roof, but also husband and wife, tho living separately, unless separated by divorce or other operation of law such as to destroy family relations; and also minor children, altho living separately from parents and supported by property in their own right, unless the parents are legally absolved from all obligations toward said children or restrained from all personal control over them. There can be allowed to each family only one exemption of $600 under the law. (T. D.; May 13, 1865.)

**Rental tax exemption.**

The rental value of property occupied by the owner is not to be included in the owner's income nor deducted therefrom. If included, the rent might be deducted. The law allows every person house rent free from tax, and nothing more in this respect is intended by the law. (T. D.; May 20, 1865.)

**Income of estates.**

As to income accruing upon property in the hands of administrators and executors to be taxed as a part of legacies, it is held that only property passing from the testator or intestate can be considered liable to legacy taxes, and the recipients must return the same, whether the beneficiaries of the estate are guardians, administrators, or trustees, either for themselves or others. All profits accruing to the estate, subsequently to the testator's death, constitute taxable income. (T. D.; May 3, 1865.)

**Return of dividends.**

All dividends, whether of scrip or otherwise, of banks must be returned as income by the respective recipients, including the tax withheld, if any. The tax withheld is, at the same time, deductible from the gross tax assessed. (T. D.; May 2, 1865.)

**Undivided profits in corporations.**

Under the act of June 30, 1864, the officers of manufacturing companies are required to furnish in their returns statements of the number and amount of shares of stock, and the names and residences of stockholders, and in cases wherein a stockholder disclaims any knowledge as to the amount of stock and the amount of undivided profits an assessor may summon the officer or officers of the company to appear under oath, with the proper books containing the needed information. So much of the amount as may be properly chargeable to expenses may be deducted from taxable income. (T. D.; May 9, 1865.)

**Sales by manufacturers' agents.**

Sales of productions by traveling agents or employees of manufacturers are to be regarded as made at the place of manufacture, and no deductions are allowable

**Sales by manufacturers' agents—Continued.**

for either expenses or commissions; but where orders are filled from a warehouse, distinct from a manufactory, commissions not exceeding 3 per cent may be deducted from taxable sales. (T. D.; March 29, 1865.)

**Returns of savings banks.**

The act of June 30, 1864, as amended by the act of March 3, 1865, requires all savings banks to make monthly returns of their capital and deposits. The average amount of deposits subject to payment by check or draft should be returned for taxation. The average amount of deposits held during the month should be returned. The surplus fund of savings banks should be treated as capital. The amount invested in United States bonds may be deducted from capital, but not from deposits. (T. D.; May 6, 1865.)

**Relief of banks.**

The provision in section 14, act of March 3, 1865, for the relief of banks is not retrospective, but operative only on and after the first of April, 1865, the date on which it takes effect. Returns up to that date should be made in conformity with the previously existing law. (T. D.; May 1, 1865.)

**Circulation of State banks.**

In estimating the circulation of a State bank the circulation of a national bank succeeding it should not in any manner be included, as the tax upon the latter is not returnable to the Bureau of Internal Revenue, but to the Treasury of the United States, in accordance with the "national currency act." (T. D.; May 1, 1865.)

**Tax on undivided profits.**

According to the general terms of section 117, act of June 30, 1864, relating to the liability of all profits of manufacturing and other companies to tax, whether divided or otherwise, it is held that all profits of such companies accruing in the year are liable to be returned as income. If no surplus remains at the end of the year only the amount divided should be returned. The undivided earnings of those companies that pay tax directly to this office need not be included in the estimation of income. (T. D.; May 19, 1865.)

**Increased value—Section 94.**

In relation to tax upon "increased value" under section 94, act of June 30, 1864, it is held that articles composed entirely of cloth, or principally of thread and yarns, such as tassels, cords, etc., are to be taxed on increased value when the thread and yarns have been previously assessed and have paid tax. All other articles are to be taxed on their entire value. (T. D.; May 26, 1865.)

**Income repairs—Damage by fire.**

Where property used in producing income is destroyed by fire it may, as a general rule, be restored at the expense of such income; but in the event that insurance money is used in the work of restoration it would have to be returned as income. It is to be observed, however, that the income from insurance can be applied to only a single restoration. (T. D.; May 25, 1865.)

**Tax of duplicate receipts.**

Where duplicate receipts are made and issued in the acknowledgment of payments of money, the terms of the law require both receipts to be stamped as originals at the time they are made. (T. D.; May 29, 1865.)

**Vendee not protected against fraud.**

Section 68, act of June 30, 1864, provides for the immediate and absolute forfeiture of spirits in the hands of vendees who may have purchased the same in open market from a vendor who sold in violation of law or in fraud. Whenever a distiller commits the offense described in that section the effect is to work an immediate statutory transfer of title in the goods to the Government. The vendee is not protected by the law in a fraudulent sale. (T. D.; May 25, 1865.)

**Wholesale liquor dealer's license.**

Any person or firm having obtained a license as a wholesale dealer in liquors may make sale of the same in quantities of more or less than three gallons. (T. D.; May 25, 1865.)

**Purchases of spirits in bond.**

Parties are advised that if they will decline to purchase or to make advances upon spirits except such as are in bond they will escape all dangers of loss for fraud as defined by section 68, act of June 30, 1864. A purchase of spirits that were in the custody of the Government would be protected by proper certificates from officers in charge. (T. D.; May 25, 1865.)

**Taxes deducted from income.**

If any taxes that were paid in any one year were deducted in any former year they can not be a second time deducted from income. (T. D.; May 18, 1865.)

**Boarding houses not taxable as hotels.**

Persons keeping boarding houses for the accommodation of regular and permanent boarders are not liable to license tax. The keeper of a boarding house who, in connection therewith, keeps a bar for the sale of liquors, for which he has a license, is not rendered liable as a hotel keeper. (T. D.; May 26, 1865.)

**Returns of trustees or guardians.**

Trustees and guardians in making returns of their wards' income for taxable purposes can swear in respect only to their best knowledge and belief. They should use all due efforts to arrive at just estimates in this regard. The deduction of $600 should be allowed, except the cestui que trust be a minor belonging to a family, in which case the parent is entitled to but one deduction of $600 in respect of the aggregate income of the family, including the cestui que trust. (T. D.; May 13, 1865.)

**Sales of Government securities.**

The sales of Government securities by banks and brokers are taxable under section 99, act of June 30, 1864, except when such securities are sold as the property of the Government by its regularly authorized agents. (T. D.; June 5, 1865.)

**Bank dividends.**

Banks may, if they choose, make their dividends payable in gold, and in such case the tax must be paid in gold. The Government being entitled to one-twentieth part of the dividend, it is clear that in order to make a division of the same among the stockholders in gold at a rate equivalent to its value in currency and remit 5 per cent to pay it in currency would be an evasion of the law. (T. D.; September 9, 1864.)

**Tax on dividends.**

Where, as in Massachusetts, stocks divided into shares are not taxable by cities and towns, but are taxed by the State to the companies, and the tax collected by the State is credited to the town where the stockholders reside, it is held that as the tax has already been deducted by the corporation before the dividend is made the stockholders are not entitled to further reduction. (T. D.; May 12, 1864.)

**Income as affected by losses, etc.**

It is held that no losses nor gains nor depreciation of property in any year can affect the income of the previous year. For instance, if A's income in 1864 was fairly estimated at $10,000, the market value of his stock on hand entering into the estimate, the subsequent depreciation in the market value of said stock can not be held to diminish his income. (T. D.; May 17, 1864.)

**Earnings of minor child.**

Where the earnings of a minor child are legally under the control of his father the amount of such earnings are clearly to be included in estimating the father's income.

**Earnings of minor child**—Continued.

If the child's income is entirely free from the father's control the assessment will be separate and distinct. In either case only one exception of $600 can be allowed from the aggregate incomes of parent and child. (T. D.; May 6, 1864.)

**License tax—Decline of prices.**

Referring to the license of wholesale dealers based upon a less amount than the sales of the previous year, it is held that the decline in the price of goods can not be considered such a change in the business of a dealer as will authorize a reduction of license tax. The assessment for such license should be based upon the amount of sales for last year, and if actual sales the current year exceed that amount there should be made a reassessment. (T. D.; June 5, 1865.)

**Dealers' sales thro brokers.**

The amount of license tax required of wholesale dealers should not be determined by the amount of sales which their books show to have been made thro the agency of a broker, inasmuch as such sales should not be included. (T. D.; May 16, 1865.)

**Increased tax on manufactures.**

The increase of one-fifth, or 20 per cent of the rates of tax authorized by section 5, act of March 3, 1865, amendatory of the act of June 30, 1864, applies only to taxes imposed in the ninety-fourth section of the last-named act, and not to taxes imposed by the ninety-fifth section of said act. (T. D.; May 22, 1865.)

**Liquor dealer's license.**

Persons selling liquor in quantities of less or more than three gallons whose annual sales exceed the sum of $25,000 are considered wholesale liquor dealers under the law, and as such are required to pay but one license each. (T. D.; May 4, 1865.)

**Tax on corporate shares.**

Deciding the question as to whether the stockholders of an incorporated company are liable to taxation on the nominal increase of the number of shares of the stock of the company made in the year 1864 as income, it is held that on a nominal increase there is no liability. On an increase where the new shares represent the gains of the company made during the year and added to the capital a tax should be assessed. The extent of liability is shown by the facts ascertained by the assessor. (T. D.; May 27, 1865.)

**Incomes of husband and wife.**

Where husband and wife have separate incomes each should be taxed according to its amount, and the deduction of $600 should be ratably proportioned between them. (T. D.; May 27, 1865.)

**Sales of fractions of patent right.**

Where fractions of a patent right are sold the estimated outlay from such fractions may be deducted from the receipts of sale. (T. D.; May 15, 1865.)

**Sales of patent right.**

Where the owner of a patent right sells the same the profits on the sale are taxable as income. The profits are to be estimated by subtracting from the amount received the sums actually received, the sums actually expended therefor, whether in purchasing the right, in obtaining the patent, or in perfecting the invention. (T. D.; May 27, 1865.)

**Tax on castings of iron.**

The rule regulating the tax on castings of iron is to the effect that when a manufacturer makes a casting for a particular machine, and which is intended to have no other use, such a casting is not to be taxed as a manufacture in itself. But when a manufacturer makes or procures to be made castings of such a nature that they may be used

**Tax on castings of iron—Continued.**

as well for one as for another of any number of machines which he is constructing, or about to construct, or have constructed, or sells such castings or uses them, they are to be regarded and taxed as manufactures in themselves. (T. D.; May 16, 1865.)

**Drawback of internal revenue.**

Referring to the circular prepared by the Secretary of the Treasury in relation to drawback of internal-revenue taxes paid and forwarded to officers of internal revenue for enforcement on and after June 15, 1865, it is held that whenever the exporter of any article of merchandise for benefit of drawback under the acts to provide internal revenue shall have failed to complete his entry therefor, as to the oath or bond required by law, and shall apply for permission to do so, the Commissioner of Internal Revenue setting forth under oath or affirmation the cause of his failure, the application shall be accompanied by a statement from the collector of all the circumstances attending the transaction within his knowledge, whereupon, if the evidence be satisfactory that the failure to complete the entry was accidental or without intention to evade the law or defraud the revenue, directions will be given for the completion of the entry and the issue of the certificate of drawback. (T. D.; May 1, 1865.)

**Stamping receipts.**

A check not being money, but only the evidence of a sum of money due and payable, is not subject to stamp tax unless it be actually received as the payment of a debt due, and that fact is expressed in the receipt. When a receipt merely acknowledges that a check has been received, without saying that it was received in payment of indebtedness, it is exempt from stamp tax. (T. D.; May 30, 1865.)

**Stamping leases, conveyances, etc.**

If, under the law of a State, a lease or a conveyance is held to be in legal effect a conveyance of a fee simple estate, it must be held by the Commissioner of Internal Revenue subject to stamp tax as a conveyance of title, and the tax will be measured by resolving the annual rental into a capital sum. If it is held to be the conveyance of a leasehold estate, merely the instrument is subject to stamp tax as a lease. If the lessee assigns his interest, it will be subject to additional tax as a conveyance on the consideration or value of the assignment. (T. D.; May 4, 1865.)

**Real estate purchased in previous years.**

In estimating a person's income for purposes of taxation, the profits arising from the sale of real estate purchased in the same year are alone to be included. Therefore the profits of a sale in 1864 of real estate purchased prior to that year can not be included. The fact that such real estate was increased in value by the erection of buildings does not render any part of the receipts taxable. (T. D.; June 8, 1865.)

**Losses on sales of stock.**

It is held that a loss incurred in one kind of business can not, for purposes of taxation, be deducted from gain in business of an entirely different character, nor from salary, rents, dividends, etc. Where stocks are bought as a permanent investment and then sold to change the investment, a loss, thereby incurred, may be deducted from the dividends of said stock. But where the purchase is made for the purpose of selling on speculation the loss involved in the sale can not be deducted from dividends, but may be deducted from gains on the purchase and sale of stock the same year. (T. D.; June 6, 1865.)

**Sales of personal property.**

All profits on sales of personal property are taxable as income for the year of sale, without reference to the date of purchase. (T. D.; April 24, 1865.)

**Assessments for street improvements, etc.**

Assessments made by municipal corporations for laying and grading streets, the construction of walks, sewers, etc., may be deducted from income if laid upon all taxpayers within the corporation; but if laid upon the owners of property supposed to be thereby increased in value no deduction can be allowed. All county and town taxes may be deducted. (T. D.; April 28, 1865.)

**Deductions from income, etc.**

It is held to have been the intention of Congress to allow the deduction of insurance moneys paid and the legitimate allowance for repairs from any income whatever. The same is true of interest paid and taxes. But the expense of hired labor can be deducted from the profits of that business only in which the labor was employed. (T. D.; May 6, 1865.)

**License of common carriers.**

In pursuance of article 50, section 79, act of June 30, 1864, a license tax is imposed upon common carriers. The provision is held to extend to and include railroad companies, steamboats, freighting vessels, teamsters, truckmen, etc., engaged in carrying articles for pay the gross receipts from which exceed the sum of $600 per year. (T. D.; June 12, 1865.)

**Dividends of express companies.**

Where an express company adds its profits to its capital, it is liable to an increase of income tax. Where an express company or other corporation declares a dividend in stock, without stating whether there has been an addition of profits, the assessor may assume that the declaration of the dividend is a division of taxable profits. (T. D.; May 13, 1865.)

**Incomes of minor children.**

It is held that, where the father is deceased, the mother and children are not considered, for purposes of taxation, as constituting a family within the meaning of section 116, act June 30, 1864. When, in such a case, the mother is appointed guardian she should return annually the income of each child separately, and each will be entitled to a deduction of $600, under the law. (T. D.; May 29, 1865.)

**Tax on increased value.**

As to taxes to which are liable firms engaged in dyeing imported goods, it is held that, under section 94, act of June 30, 1864, it is intended that on all cloths dyed, etc., on which a duty or tax shall have been paid before the same were dyed, the tax of 5 per cent shall be assessed on the increased value only. (T. D.; May 8, 1865.)

**License and bond of cigar makers.**

Manufacturers of cigars and tobacco whose business does not exceed $1,000 per annum can not be required to take license as manufacturers, nor give the bond prescribed by section 12, act of March 3, 1865. (T. D.; May 22, 1865.)

**Incomes of wife and minor children.**

Where a man and his wife have separate incomes, the wife being also the guardian of her minor children by a former husband, it is held that each income must be taxed separately, and a ratable proportion of $600 allowed to each. (T. D.; June 2, 1865.)

**Sour beer exempt from tax.**

Beer soured in the hands of the manufacturer and that which leaks before removal from the brewery is not liable to tax. Beer that sours in the hands of the purchaser, and which is returned upon the brewer's hands, has also been held to be exempt from tax. (T. D.; May 17, 1865.)

**Deduction of tax for depreciation.**

Certain shipowners having claimed a deduction of 12 per cent from the gross income of each vessel for insurance, and also from 20 to 30 per cent for depreciation of value, it is held that a deduction should be allowed for insurance only when paid, while the law makes no provision for a deduction for a depreciation of property, except for actual repairs averaged for five preceding years. (T. D.; May 13, 1865.)

**Sales of playing cards.**

Where a manufacturer of playing cards shall indicate on the outside of the original package in which the cards are sold that stamps of a certain denomination are affixt to the respective packs therein, it will not be consistent with the late act of Congress to require the imposition of a penalty upon jobbers who may sell such cards in the original and broken package marked by the manufacturer. Upon exposing the packs for sale the holder should affix any additional stamps that may be required by the price at which they are sold. (T. D.; May 29, 1865.)

**Tax on brokers' sales.**

In regard to tax on brokers' sales, it is held that sales made thru brokers or auctioneers should not be included in assessing license taxes of dealers in cases where the sales are completed by the broker or auctioneer, and where the books of such dealers are so kept as to show that the merchandise claimed to be exempt was sold either at auction or thru a broker. (T. D.; June 13, 1865.)

**Deposits of savings banks.**

The deposits of savings banks are subject to the tax of one-twenty-fourth of 1 per cent under section 110, act of June 30, 1864, but the deposits may be so far considered as capital as to allow the deduction of the amount invested in United States bonds which do not include 7.30 notes nor certificates of indebtedness. (T. D.; June 20, 1865.)

**Postage and revenue stamps exempt.**

The sales of postage and revenue stamps are not to be included in estimating the amount of license tax required of dealers. (T. D.; June 23, 1865.)

**Brokers' and bankers' sales.**

All brokers, and bankers doing the business, are held to be liable to tax on sales of their own stocks, bonds, etc., as well as upon those belonging to others. (T. D.; April 24, 1865.)

**Tax on lager beer.**

In relation to tax on lager beer brewed prior to September 1, 1862, and remaining in vaults until after that date, it is held that it is liable to tax under the act of July 1, 1862, which imposes a tax on lager beer. Beer which was stored in vaults in in the months of February and March, 1862, was not then, and could not become, lager beer until after September 1, 1862, and to have removed from the vaults prior to that date would have prevented it from ripening and ruined it. (T. D.; December 8, 1862.)

**Retail liquor dealers' license.**

Under the present ruling of the Bureau of Internal Revenue, only one license as a retail liquor dealer is required to cover the business of any person engaged in the sale of liquors in quantities of less than 3 gallons, and of other merchandise the annual sales of which do not exceed $25,000. (T. D.; June 14, 1865.)

**License of lottery dealers.**

The sixth paragraph, section 79, act of June 30, 1864, requires lottery ticket dealers to pay a license tax of $100, and are subject to the penalties of the act if they fail to procure license. By one of the provisions of the law the purchase of a lottery

**License of lottery dealers**—Continued.

ticket from a person who has not obtained a license is made a serious penal offense. A license can be procured only by giving bond to the managers who are responsible for the tax imposed on the business. (T. D.; June 24, 1865.)

**Cancellation of stamped paper.**

All stamped paper is canceled whenever used. The use of the paper by filling the blanks or attaching a signature is equivalent to the ordinary form of canceling an adhesive stamp by writing initials and date upon it. Any portion cut out and attached to another paper is not only worthless but an evidence of fraud. (T. D.; June 23, 1865.)

**Losses deductible from income.**

Respecting losses caused by the collapse and closing up of one manufacturing company as offset to gains in another manufacturing company, it is held that, if the taxpayer can show the stock of an insolvent manufacturing company to be worthless he should be allowed to deduct the purchase money, given therefor by him, from gains accruing from other manufacturing operations, or in respect of the dividends of other manufacturing companies, for the year when the aforesaid insolvency appeared. (T. D.; June 15, 1865.)

**Increased value of sails, tents, etc.**

It is held that the material of which tents are manufactured is understood as including everything entering into the making of the tent. The rope, buttons, and thread are material as really as the duck, and are necessary to the tent. Their value and the value of the duck must be deducted from the value of the tent in order to determine the taxable increase in the value of the manufacture. (T. D.; June 23, 1865.)

**Tax on certificates of stock.**

A certificate of stock is taxable at 25 cents, the power of attorney on the back of it, 25 cents, and the transfer is taxable at 5 cents, as an agreement or contract. (T. D., June 29, 1865.)

**Receipts of public officials.**

All instruments issued or used by a State, county, city, or town are exempt from stamp tax, inasmuch as the stamps in such case would be a charge on the public Treasury. It was not the intention of the law to tax the exercise of municipal powers and functions, and, therefore, whenever the use of stamps would be a charge upon the State, county, city, or town treasury, none will be required. (T. D.; June 27, 1865.)

**Mortgages and bond.**

Where a bond is secured by two mortgages the stamp tax, if governed by the mortgages, would have to be double, in order to validate all the instruments. If, however, the stamp appropriate to a bond be affixt to the same, then the bond will be valid, even if the mortgages are not. (T. D.; May 18, 1865.)

**Gross receipts for transportation.**

The gross receipts of persons engaged in transporting property for hire, if less than $1,000 annually, are exempt from the tax on gross receipts from and after April 1, 1865. Gross receipts for transportation prior to that time are liable to the tax of 2½ per cent. (T. D.; June 16, 1865.)

**"Imitation" liquors.**

The commissioner notifies assessors and collectors of internal revenue of the suspension of so much of Circular 29 as required distillers, rectifiers, brewers, or other persons engaged in the manufacture of liquors sold as imitations of Bourbon whisky, brandy, gin, etc., to return and pay tax on such imitations. (T. D.; June 13, 1865.)

**Tax on manufactured wines.**

Manufactured wines, made entirely from grapes, or sparkling wines produced from imported wines, are not affected by the suspension of that portion of Circular 29 relating to "imitation liquors," but are liable to the tax of 60 cents per gallon under section 94, act of June 30, 1864, and act of March 3, 1865, if, in addition to the gas, spirits shall be mixt therewith to preserve from spoiling. (T. D.; June 13, 1865.)

**Agents for sale of 7.30 notes.**

Inasmuch as Jay Cooke is the agent of the Government for the sale of 7.30 notes, it is held that all agents appointed by him for the sale of said notes should be recognized as agents of the Government, regularly authorized. (T. D.; June 26, 1863.)

**Stamping tax-sale conveyances.**

In tax sales of lands by State or county authorities, where the purchaser is required to pay the expenses of sale and transfer, the conveyance of title is liable to stamp tax, inasmuch as the expenses of such purchase follow the grantee; but, where the State or county would be ordinarily subject to tax on a conveyance, no stamp tax is required. (T. D.; July 11, 1865.)

**Remission of penalties.**

Applications for the remission of penalties imposed in courts of the United States for violations of internal-revenue laws must be made directly to the Secretary of the Treasury. Persons desiring further information on this subject are referred to the act of March 3, 1797, First Statutes at Large. (T. D.; July 11, 1865.)

**Payment of manufacturer's tax.**

Manufacturers are required by section 83, act of June 30, 1864, as amended, to pay their taxes on or before the 30th of each month, without notice. Section 84 of that act allows distraint only on failure to pay within ten days after demand. (T. D.; July 11, 1865.)

**Licensing persons with trade permits.**

Where a person holds an unexpired "permit to trade" in States lately in rebellion, granted by an authorized agent of the Government, civil or military, and is assessed for a license tax as a dealer, collectors of internal revenue are directed to receive such permits in part or in entire satisfaction of the license tax assessed. Collectors will be charged with the entire assessment, but can make affidavit for abatement of the amount covered by the permit and money paid by the assessed person. (T. D.; July 11, 1865.)

**License tax and annual lists.**

Where a license tax is applied for, entered, and returned on the annual list and certified to, the collector, pending the reception of annual list, may make out the license and notify the person that it is ready for him, but can not distrain until the annual list is returned to him, and there is compliance with all the prescribed formalities. (T. D.; July 11, 1865.)

**Assessment of wholesale dealer's license.**

As to the basis on which wholesale dealers should estimate their license tax, the existing ruling contemplates that dealers may estimate the amount of their sales, or that for which the license is taken, without reference to the exact sales of the former year of license, and that the amount of tax shall be thereby determined. If, at the close of the year, it shall appear in any case that the actual sales have exceeded the estimate a reassessment will be made. (T. D.; July 11, 1865.)

**Deposits and capital—Savings banks.**

The Commissioner of Internal Revenue reaffirms the decision relative to the returns of savings banks, holding that the deposits of a savings bank, having no capital stock, may be so far regarded as capital as to allow the deduction of the amount of

**Deposits and capital—Savings banks**—Continued.

such deposits that may be invested in United States bonds. The surplus should also be regarded as capital and added to the deposits, from which the amount of bonds is deducted. (T. D.; July 12, 1865.)

**Dray receipts—Bills of lading.**

Responding to the inquiry as to whether it is necessary for shippers of goods to foreign and domestic ports to stamp the dray receipts in addition to the stamps affixt to bills of lading, it is held that stamps should be affixt to such receipts by some person, and that the person who signs and issues an unstamped receipt of that character is liable to a penalty. Dray receipts are not covered by the stamps affixt to bills of lading and should be stamped as any other receipt for goods delivered. (T. D.; July 14, 1865.)

**Charges for names on tax lists.**

In regard to the compensation of assistant assessors for names of persons returned on tax lists attention is called to the words of the statute, as follows: "Three dollars for every hundred persons assessed contained in the tax list as completed and delivered by him to the assessor." In construing this provision it is held that assistant assessors can be allowed only for each person whose name is contained in an assessor's list, and they can charge only 3 cents for one person, altho his name may appear more than once. Where objects of taxation are returned against a firm the charge can be made for only one name. (T. D.; July 21, 1865.)

**Manufactures from materials owned by others.**

Under section 93, act of June 30, 1864, a person who makes shirt fronts from material furnished by others is regarded as a manufacturer and liable to tax as such, from the date when informed by the assessor of such liability. The tax thus imposed upon such manufactures is 6 per cent, under section 94 of the aforementioned act. (T. D.; July 12, 1865.)

**License of builders and contractors.**

In relation to the license of either a builder or contractor it is held to be unnecessary that a written contract exist between the builder and the employer in order to make the builder liable to a license. A verbal contract must be regarded as coming within the intent of the law, rendering the contractor liable to take license. (T. D.; July 15, 1865.)

**Assessments on gross receipts.**

Assessments on the gross receipts of carmen and others carrying property for hire must not be held back for entry on the "monthly list" to the prejudice of collections, but should be returned on a special list, where immediate collection is necessary. (T. D.; July 19, 1865.)

**Medical compounds—Stamp tax.**

Under section 165, act of June 30, 1864, druggists are exempt from stamp tax upon any uncompounded medicinal drug or chemical, or any medicine compounded according to the United States or other national pharmacopœia, or according to the formula of any of the dispensatories, formularies, or text-books in common use among physicians and apothecaries, or any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold nor offered for sale, or advertised under any other name, form, or guise than that under which they may be severally denominated and laid down in said pharmacopœias, text-books, dispensatories, or journals. But, under section 94 of said act, druggists may be liable to an ad valorem tax of 6 per cent upon any drugs, medicines, medicinal preparations, or compositions made, prepared, and sold or removed for consumption or sale by them, as manufacturers not otherwise provided for, tho the same are exempt from stamp tax under Schedule C. (T. D.; July 20, 1865.)

**Deposits of savings banks.**

It is held that the average amount of deposits held in savings banks during the month should be taken as the current amount subject to tax in estimating the monthly tax of one twenty-fourth of 1 per cent, and not the average amount of deposits received during that period. (T. D.; July 21, 1865.)

**Bank circulation and deposits.**

The tax imposed upon bank circulation and deposits constitutes an indebtedness by such bank which continues to accrue so long as the prescribed conditions exist. While, therefore, any portion of the circulation exceeding 5 per cent of the chartered or declared capital is outstanding, or any of the deposits remain in the custody of the bank or of its agents, the liability to make return and pay tax thereon will continue. (T. D.; July 21, 1865.)

**Tax on increased value.**

The proviso of section 94, internal-revenue law, that cloths, fabrics, or articles made of thread, yarn, or warps, upon which a tax has been paid, shall be assessed and pay a tax on the increased value thereof, is held by the Commissioner to apply to cloth fabrics or to articles made wholly or principally of thread, yarn, or warps of domestic manufacture and upon which an excise tax has been paid. (T. D.; July 22, 1865.)

**Military State agent exempt.**

A military State agent, commissioned by the governor and paid as such by the State, who may present and prosecute claims in any of the Executive Departments of the Government without fees or other compensation from claimants, is not required to take license as a claim agent. (T. D.; July 22, 1865.)

**Assignment of mortgage.**

The present assignment of a mortgage, executed years ago, must be governed by the law now in force. If the mortgage has been reduced by payments, the amount of tax stamps to be affixt to the assignment depends on the amount due on the mortgage at the date of the assignment, and not on the sum secured by the mortgagor without regard to deductions due to subsequent payments. (T. D.; July 22, 1865.)

**Clubhouse exemption.**

A clubhouse is not liable to license tax on account of liquors purchased by its officers for distribution among its members and paid for according to quantity. (T. D.; July 22, 1865.)

**Income—Undivided gains and profits.**

Section 117, act of June 30, 1864, requires the taxpayer to include as income "the interest received or accrued upon all notes, bonds, and mortgages," "whether paid or not;" also "his share of the gains and profits of all companies, whether incorporated or partnership," whether "divided or otherwise." Such gains and interest should be included in the assessor's returns. (T. D.; July 20, 1865.)

**Assessment of penalties.**

Under those sections of the act of June 30, 1864, relating to penalties, the assessor is given no discretion and must impose the penalty whenever a liability is incurred. In cases, however, where the language of the law is that he "may add the penalty," he should impose the penalty named, unless satisfied that it was impossible for the taxpayer to comply with the law, as in cases of sickness, unavoidable absence, or excusable ignorance of the statute. Where manufacturers neglect to make returns, etc., required in section 85, act of June 30, 1864, the penalty of 50 per cent and not 25 per cent on such manufactures should be imposed, and the returns must be made monthly. (T. D.; July 25, 1865.)

**Brokers' sales of ships.**

As to the liability of brokers to the tax of one-eighth of 1 per cent on the sales of ships, it is held that ships constitute merchandise, and any licensed broker who sells the same is liable to the tax on the sales at the rate of one-eighth of 1 per cent. (T. D.; May 11, 1865.)

**Income deductions—Loss by fire.**

Property which is used in business and furnishing profits may, when destroyed by fire, be restored at the expense of the profits. If insured, the difference between insurance received and the amount expended in restoration will be allowed. Unless the property be restored no deduction on account of the loss can be made. (T. D.; June 8, 1865.)

**Savings banks' dividends—Interest.**

Interest paid to depositors by savings banks is considered a dividend within the meaning of section 120, act of June 30, 1864, and the tax of 5 per cent should be withheld and paid to the Government. (T. D.; July 28, 1865.)

**License tax—Wholesale dealers.**

It is held that the sales which a wholesale dealer makes thru brokers and auctioneers are to be included in the amount of annual sales upon which the license of such dealer is based, and that the license of the wholesale dealer does not relieve the broker and auctioneers thru whom he makes his sales from their liability to tax under sections 98 and 99, act of June 30, 1864. (T. D.; August 4, 1865.)

**"Broker" defined.**

In the popular sense of the word, a broker is an agent employed to effect bargains and contracts as a middleman or negotiator between buyer and seller for a compensation, payable by the latter, commonly called brokerage. He takes no possession of subject-matter of negotiation. Ordinarily he contracts in the name of the person employing him. (T. D.; August 4, 1864.)

**Income profits—Leasehold sales.**

Section 116, act of June 30, 1864, provides that the "net profits realized by sales of real estate" shall be chargeable as income only "when such estate shall be purchased within the year," and, furthermore, that, "for the purpose of this act," the term real estate shall include all "lands, tenements, and hereditaments, corporeal and incorporeal." It is held that leasehold estates are not included in the provisions of the statute. It is held, also, in pursuance of section 116, that the profits realized during the year are to be returned and assessed without regard to the fact that they have been produced by the labors of "previous years." (T. D.; July 31, 1865.)

**Dividends from surplus earnings.**

In pursuance of section 120, act of June 30, 1864, it is held that, altho the surplus from which dividends were declared was acquired prior to the passage of the revenue law, yet, if the same is dividend after the law went into effect, the rule is that the tax must be withheld from the entire dividend whenever it becomes due and payable, without regard to the time when the profits or earnings were acquired. (T. D.; August 5, 1865.)

**Assignment of judgment.**

The assignment or the transfer of a judgment is required by the law to be stamped as an agreement or contract. (T. D.; July 26, 1865.)

**Stamps on real estate notes.**

Notes given by a purchaser for the payment of the amounts that remain unpaid on the purchase of real estate are liable to stamp tax. The fact that the notes are given and taken merely for convenience, and, in one sense, are a repetition of the liability stated in the deed, in no manner releases them from stamp tax, the rule of the Bureau of Internal Revenue being that duplicates must be stamped the same as originals. (T. D.; July 26, 1865.)

**License of contractors and manufacturers.**

The license of either a builder or a contractor covers his business, if he makes no articles subject to tax as manufactures; but if he makes such articles the value of which exceeds $1,000 annually, he must also have license as a manufacturer. In such case the amount of business covered by the manufacturer's license may be deducted from the amount of contracts. (T. D.; July 26, 1865.)

**Mortgage and power of attorney.**

If a mortgage contains a power of attorney to sell, it is liable to stamp tax as a power of attorney, in addition to the tax which the law imposes upon the instrument as a mortgage. (T. D.; July 26, 1865.)

**Deeds and notes on deferred payments.**

The obligation created by a deed to real estate, and the notes given for repaid installments on the purchase money, are not the same in either character or intent. The deed creates a lien upon a particular tract of land. Payments of the notes may be enforced by the attachment of other property belonging to the maker or indorser and collectible in the hands of the holder. They may have been negotiated, indorsed, and passed through the hands of a dozen persons, and the payment of them may be enforced against either of the indorsers, regardless of the lien upon the land. (T. D.; July 26, 1865.)

**Joint tenants and tenants in common.**

It is held that in case a partition of real estate between joint tenants, or tenants in common, can not be made without detriment to the parties, and the court orders the referees to sell the land at public auction, a deed of the same being made to the purchaser, such deed must be stamped as other deeds. An actual sale takes place and a valuable consideration is passed. The stamp on the original process is inadequate to cover the deed. (T. D.; July 26, 1865.)

**Sheriff's deed.**

Where a mortgage is foreclosed, a special execution issued, and land sold the same as on a general execution, the deed made by the sheriff must be stamped as other deeds. (T. D.; July 26, 1865.)

**Commercial broker's license.**

A duly licensed commercial broker may negotiate a sale of liquors from one dealer to another without additional license; but if, at any time, the liquors shall be in his custody or under his control, he must have a license as a liquor dealer on account of the aforesaid negotiation. (T. D.; July 26, 1865.)

**Single license—Claim and property agents.**

A single license, if so requested, will be sufficient to authorize any person, upon payment of a license fee of $10, to act as both claim agent and real estate agent in a city or town having a less population than 6,000 inhabitants. (T. D.; July 26, 1864.)

**Mortgage to secure annuity.**

A mortgage to secure an annuity of $500 per annum during the life of the annuitant, the present value of the annuity being specified in the condition of the mortgage at $6,000, is subject to a stamp tax of $6. (T. D.; August 3, 1865.)

**Copies of photographs.**

Photograph pictures which are mere copies of works of art are exempt from stamp tax whenever sold by the producers, at wholesale, for a price not exceeding 10 cents each. But when sold at retail for any price exceeding 10 cents each, they are liable to the same stamp tax as the originals. (T. D.; August 3, 1865.)

**Bankers' and brokers' sales.**

It is held by the Commissioner of Internal Revenue that, under section 99, act of June 30, 1864, all sales of brokers, and of bankers doing business as brokers, for

**Bankers' and brokers' sales**—Continued.

themselves, are liable to revenue tax. Tho not in harmony with a decision rendered by Judge Nelson in the United States district court in the southern district of New York, it will be maintained until the legal question involved shall be ultimately decided on appeal. (T. D.; August 2, 1865.)

**Stamps for certain deeds.**

As to fixing stamps to deeds, it is held that a deed executed prior to September 1, 1862, if it was delivered before that date, requires no stamp, and, therefore, may be admitted to record without one. But, if delivered subsequent to that date, the deed can not be legally recorded unless it be stamped. (T. D.; August 2, 1865.)

**Bonds—Replevin and capias.**

Bonds given by litigants in actions of replevin and in actions begun by capias are held to be bonds required in legal proceedings, and are, therefore, exempt from stamp tax under the revenue law. (T. D.; August 2, 1865.)

**Returns of products and manufactures.**

Circular 34 gives special instructions to assessors and assistants relating to the mode of returning manufactures and products, showing that section 86, act of June 30, 1864, requires that any person, firm, company, or corporation manufacturing or producing goods, wares, and merchandise sold or removed for consumption or use, upon which taxes are imposed, shall, when returning value and quantity, render an account of all actual sales by the manufacturer, producer, or agent thereof, stating in a separate column the items and accounts of the deductions, if any, claimed; whether any part and what part of said goods, wares, and merchandise has been consumed or used by the owner or agent, or used for the production of another manufacture or product, together with the market value; whether such goods, wares, and merchandise were shipped to a foreign port or consigned to auction or commission merchants, other than agents, for sale, and shall make return according to value at place of shipment when shipped abroad, or according to value at place of manufacture, when removed for use or consumption, or consigned to others than agents of the manufacturer or producer. (T. D.; August 2, 1865.)

**Insurance agents' license.**

Persons employed by insurance companies to take general care and supervision of the interests of the company, either at a fixt location or by traveling from place to place, must procure license as insurance agents, whether they solicit risks and negotiate insurance or not. (T. D.; August 2, 1865.)

**Inspectors and cigar stamps.**

Modifying circular 31, dated April 21, 1865, the Commissioner directs that each assessor will transmit to the Bureau of Internal Revenue his application for a quantity of stamps sufficient for the needs of his district for one month, being particular to specify the denomination as well as number of stamps. These he will supply to the inspectors of his district in such quantities as they may desire, taking receipts, which should be filed in his office. Stamps should not be furnished to any inspector until he has filed with the collector the bond required by section 91, act of June 30, 1864. (T. D.; July 15, 1865.)

**Permit to make cigars.**

A person holding a permit granted or indorsed by assistant assessors for making cigars may sell and deliver cigars of his own manufacture without the payment of tax after having them counted and receiving a certificate of the number from the assistant assessor or inspector under section 94, act of June 30, 1864, but the purchaser must have the same packed in boxes, inspected, and stamped, and unless removed to a bonded warehouse he must pay the tax on the cigars within five days from making the purchase. (T. D.; July 15, 1865.)

**Deduction of interest from income.**

Interest paid out by a person may be deducted from source of income. Where the owner of property occupies it he is as much entitled to deduct insurance, repairs, taxes, and interest on incumbrances as if the property were rented and produced actual income, and he has the same right where the property is unoccupied and unproductive. (T. D.; July 29, 1865.)

**Pedlars' license.**

The regulations of the Bureau of Internal Revenue require that every person who travels as a pedlar shall have a license issued in his name or duly transferred to him by the collector. A pedlar's license can not be taken out by a manufacturer and used by his employees. (T. D.; June 3, 1865.)

**Dealers in meat, wholesale.**

Persons engaged in selling butcher's meat by wholesale are not considered butchers within the meaning of the law and should be treated in all respects as dealers, being required as such to procure license under articles 2 and 3, section 79, act of June 30, 1864. Article 36 of that section relates exclusively to persons selling butcher's meat by retail. (T. D.; June 13, 1865.)

**Physician, surgeon, and dentist.**

Only one license is required to cover the business of a person who is engaged in the practice of a physician, surgeon, and dentist at the same time. (T. D.; June 6. 1865.)

**License of insurance agent.**

Persons employed by regularly licensed insurance agents as runners to solicit business, having no authority to represent a company or companies and acting solely as employees of an agent, are not liable for an agent's license so long as they confine themselves to that occupation. (T. D.; July 18, 1865.)

**Agency defined.**

The question as to the limits of an agency is in all cases a question of fact to be determined by attending circumstances. Wherever any person is authorized to represent an insurance company, either directly by the company or indirectly thru an agent, he is to all intents an agent of the company and liable to license tax. (T. D.; July 18, 1865.)

**Liability for income returns.**

A person is not liable for income tax for any year unless he resides in the United States or is a citizen of the United States residing abroad on the first Monday of the succeeding May. Dead persons can not be regarded as either residents or citizens. (T. D.; June 9, 1865.)

**Tax on certain incomes.**

If prior to the first Monday of May in any year a person make a return of income for the preceding year and then dies before the first Monday in May of the year in which he makes the return neither he nor his representatives is liable for tax on the return. Therefore there should be no assessment. All income to an estate after the owner dies is income to the persons entitled to receive the same and should be taxed to them or to their legal representatives. (T. D.; June 9, 1865.)

**Annual income or gains.**

Neither deceased persons nor their executors or administrators are to be taxed for income or gains made on or after January 1 in one year and prior to the first Monday in May of the succeeding year, the person dying at any time between those two dates, including the first date. (T. D.; June 9, 1865.)

**Agents' and "runners'" license.**

It is held that all persons traveling about the country as the agents or "runners" for manufacturers and dealers seeking orders for goods in either original or broken packages must procure license as commercial brokers. The agents of one person or of a firm are equally liable with those acting as the agents of others. The license should specify the place of business of the licensee or of his residence. Such a license will be recognized in all parts of the country by revenue officials. (T. D.; August 17, 1865.)

**Income from sale of timber lands.**

The basis for estimating income from timber lands is this, viz: When timber is sold, either standing or cut, the taxable profits are determined by estimating the value of the land after the timber is removed and adding thereto the net amount received for the timber. From this amount should be deducted the estimated value of the land on January 1, 1862. (T. D.; June 24, 1865.)

**Income of the wife.**

Where the wife has legal control of her own income she should make separate returns of the same, and the exemption of $600 allowed by the law should be shared in proportion to the separate amount of income. The rate of 10 per cent should be assessed on the excess only of each income over $5,000. (T. D.; June 26, 1865.)

**Dividends of insurance companies.**

Such portions of stock dividends as comprize the earnings of an insurance company previous to July 1, 1862, need not be returned as income. Such portions as consist of earnings after that date ought to be returned and the stockholder returning the same allowed to deduct any tax withheld by the company on such portions (as tax on surplus or contingent funds) under either the act of July 1, 1862, or the act of June 30, 1864, from the gross tax for income assessed in accordance with section 116, act of June 30, 1864. (T. D.; July 1, 1865.)

**Repairs and permanent improvements.**

When making assessments on property "repairs" should be distinguished from "permanent improvements." The replacing of worn-out tools or machinery should be considered as "repairs" in so far as the new article equals the estimated value of the old on January 1, 1862, and as "permanent improvements" in the amount by which the value of the new article exceeds that of the old on that date. (T. D.; June 19, 1865.)

**Stock dividends.**

The Commissioner of Internal Revenue has uniformly held that the income from stock dividends is liable to taxation in estimating gains, profits, and income under the act of June 30, 1864. (T. D.; August 5, 1865.)

**Bills of lading receipts.**

Domestic bills of lading are considered as receipts for the delivery of property and are held to be liable as such to stamp tax. (T. D.; August 5, 1865.)

**Brokers' sales of vessels.**

Vessels are not held to be merchandise within the meaning of section 99, act of June 30, 1864, and the tax of an eighth of 1 per cent imposed by said section upon the sales of merchandise should not be assessed upon the sales of vessels by a broker. (T. D.; August 22, 1865.)

**Refunding of taxes illegally collected.**

In view of the opinion prevalent among bankers and brokers that the provision in section 3, act of March 3, 1865, requiring collectors to deposit daily in the Treasury all moneys received by them for taxes supersedes section 44, act of June 30, 1864, authorizing the Commissioner of Internal Revenue to remit and refund all taxes

**Refunding of taxes illegally collected**—Continued.

erroneously, unjustly, and illegally assessed and collected, the attention of collectors is called to that portion of section 44, act of June 30, 1864, which authorized the Secretary of the Treasury to prescribe regulations under which erroneously and illegally collected taxes could be refunded by substituting another mode of payment, in order that the Government should not refuse payment in such cases. In pursuance of that section the Secretary prescribed regulations to meet the requirements of the law. The Commissioner is now required to make application from time to time to the Secretary to have the necessary sums placed to his credit with the assistant treasurer at New York, upon which he draws as if the money were in the hands of the collectors. Thus there is neither the ability to pay nor the facility with which refunding should be made to taxpayers. (T. D.; August 22, 1865.)

**Book agents' license.**

Persons engaged in soliciting orders for books, but who do not deliver nor receive pay for the same, are not thereby made liable for license tax. If, however, such persons deliver and receive pay for such books, maps, etc., either at or subsequent to receiving subscriptions, they will be required to procure license as pedlars. The same is true of persons delivering books on orders or subscriptions taken by others. (T. D.; July 13, 1865.)

**Payment of taxes.**

Taxpayers are notified in Special Circular No. 23 that section 3, act of March 3, 1865, requires that all moneys directed by law to be paid to the Commissioner of Internal Revenue shall be paid into the Treasury of the United States by the party making payment; and a certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer, designated depositary, or proper officer of a deposit bank, and transmitted to and received by the Commissioner, shall be deemed a compliance with the law requiring payment to be made to the Commissioner. (T. D.; August 16, 1865.)

**Tobacco manufacturers' bonds.**

In order that manufacturers of tobacco, snuff, and cigars may conform to a uniform rule, assessors and collectors of tax are directed to assume that all persons engaged in this business do manufacture to an amount exceeding at least $1,000 per year, and will relieve such persons from giving bond and paying a license tax unless there shall be proof that the value of their manufacture does not exceed that sum. As competent evidence of these facts the affidavit of the manufacturer and that of his workmen may be taken. (T. D.; August 19, 1865.)

**Legacies specific in character.**

Where, under the provisions of a will, the legatee may demand of the executor the delivery of gold, he can not be held to receive a legacy of money merely, else the executor might pay in currency. The legacy must therefore be treated as specific in character, the clear value of which at the time the legatee received it being taxable. When an allowance above the valuation of a specific legacy on which the tax has been paid is realized by the sale of the legacy the advance is regarded as neither taxable legacy nor income. (T. D.; August 19, 1865.)

**Legacies—Amount taxable.**

The amount of personal property liable to legacy tax under section 124, act of June 30, 1864, is ascertained by the actual value of the property—that is, the amount remaining after payment of debt and expenses of administration. When the value does not exceed $1,000, it is not liable to legacy tax. (T. D.; August 26, 1865.)

**Income profits and losses.**

In conformity with section 117, act of June 30, 1864, the profits of manufacturing and of other companies, accruing in the course of the year, must be returned for income

**Income profits and losses**—Continued.

tax. For the purpose of estimating such profits, assessors may under section 14, act of June 30, 1864, require stockholders and officers to produce testimony and books. The undivided earnings of companies that pay taxes directly to the Bureau of Internal Revenue need not be included in the estimates of income. (T. D.; May 19, 1865.)

**Dividend tax.**

It is held that all dividends, declared under section 120 of the excise laws since July 1, 1864, are taxable at the rate of 5 per cent without regard to the time when the profits were earned. (T. D.; August 22, 1865.)

**Railroad freight receipts taxable.**

That clause of Schedule B, section 170, act of June 30, 1864, which exempts from stamp tax the receipts for the delivery of property issued by persons, firms, or companies doing an express business, is held not to apply to receipts given by railroad companies for property to be transported by them in the ordinary course of business. (T. D.; May 19, 1865.)

**Income of minor—Guardian's return.**

The guardian must make return for the minor's income. In the absence of a guardian, the father should make the return, and if he has legal control of the minor's income, he should return it with his own. Only one deduction of $600 can be made from the aggregate income of parent and child, and that sum must be divided in proportion to their respective incomes. (T. D.; June 20, 1865.)

**License of liquor dealer.**

A retail dealer in liquor, who wishes to sell his entire stock at once in order to retire from business, need not procure a wholesale liquor dealer's license for the purpose. (T. D.; September 2, 1865.)

**Trade with "rebellious States."**

The Secretary of the Treasury rules that articles heretofore prohibited may henceforth be transported to places located in "insurrectionary" States, with restrictions except as to guns, pistols, and ammunition. Applications for the shipment of the latter articles should be made to the proper customs officers, who will send them to the Department for its decision, accompanied by such recommendations as they shall be disposed to make. (T. D.; September 2, 1865.)

**Issue of 5-20 bonds.**

The 5-20 bonds of the United States issued under the act of June 30, 1864, should be included in the list of United States securities that should be deducted from bank capital, under the operation of the internal-revenue laws. (T. D.; September 4, 1865.)

**License of wholesale and retail liquor dealers.**

There is nothing in the law to prevent a person who holds license as a retail liquor dealer from selling other merchandise, nor is he, on this account, required to procure license as a retail dealer. Any person who sells liquors in quantities exceeding 3 gallons at a time, or whose annual sales, including all sales of other merchandise, exceed $25,000, is required to procure license as a wholesale liquor dealer. (T. D.; August 24, 1865.)

**Patent-right dealers.**

A person who makes a business of selling patent rights, whether he be the patentee or not, is liable for a license tax as a dealer in patent rights. It is held, however, that the sale of a single right by either the inventor or proprietor of a patented article would not constitute a business in a sense that would require the person to take license. (T. D.; September 14, 1865.)

**Powers of revenue agents, collectors, and assessors.**

By law and the regulations of the Department the collector is the representative of the Governmment in enforcing revenue collections and punishing offenses; and, in discharging the duties of his office, he has authority to appoint as many deputies as he may deem proper, subject to the approval of the Commissioner, but he can not appoint a revenue agent, nor authorize a revenue agent to act for him in the receipt of money, nor in any other way in the exercise of official authority. It is also held that the law does not allow an assistant assessor to act as a deputy collector. The duties of assessment and collection are confided properly to different officers. (T. D.; June 21, 1865.)

**Deductions from successions.**

It is held that, for purposes of taxation, no deductions can he made from successions on account of costs and attorney's fees in proceedings for the partition of real estate. (T. D.; September 14, 1865.)

**Assessments, penalties, false returns.**

Whenever it is discovered that the returns made by any person, or for any firm, company, or corporation are false, and made with intent to defraud, the assessor will proceed promptly to ascertain the amount that should have been returned. In addition to the penalties required to be assessed under sections 14 and 85, act of June 30, 1864, every person making a false return is liable to be proceeded against under one or more of the following sections: 15, 42, 48, 70, 84, 92, 94, 98, 102, 109, 111, 114, and 122, act of June 30, 1864, and such proceedings should be instituted, if no proposition to compromise the case is offered. (T. D.; July 12, 1865.)

**State banks made national.**

Where a State bank is converted into a national bank during any given month, the tax on capital and deposits should be returned to the date of transfer, and returns should be made on circulation for an entire month. (T. D.; July 19, 1865.)

**Tax on deposits of savings banks.**

Where a savings bank credits its depositors with interest, the amount so credited should be treated as deposit and returned accordingly for taxation. (T. D.; July 27, 1865.)

**Tax on savings-banks deposits.**

It is held that, when the assignee of a savings bank "loans the funds as collected," the case comes within the meaning of paragraph 1, section 79, act of June 30, 1864, and it is the duty of the assignee to pay tax on the deposits, in conformity with section 110, act of June 30, 1864, as amended by the act of March 3, 1865. (T. D.; July 6, 1865.)

**Tax on sales of securities.**

Brokers and bankers doing the business of brokers are required to pay one-twentieth of 1 per cent on all sales of United States bonds, notes, and other securities, unless the sales are made for the Government directly, or as agents acting with Jay Cooke, the general agent for the sale of Government bonds. If the bank owns the stocks sold, or sells them for others, it is liable to tax. (T. D.; May 12, 1865.)

**Accident policies exempt.**

Insurance policies issued by accident insurance companies, altho containing a clause on life insurance, are held to be exempt from stamp tax, under section 160, act of June 30, 1864. (T. D.; September 16, 1865.)

**Successions to land taxable.**

Successions to lands are assessable against residents and nonresidents in the districts in which the lands are located. Guided by sections 137 and 147, act of June 30, 1864, the successor, or his representative for him, must make return and pay the tax as soon as he takes possession of the property. (T. D.; September 2, 1865.)

**Incomes—Depreciation of property.**

In estimating the amount of taxable income, no account is to be taken of a merely nominal appreciation or depreciation in the value of property. It is accordingly held that the mere depreciation in the value of a lease should not be deducted from the taxable value of an income. (T. D.; August 22, 1865.)

**Officers' pay for extra three months.**

Army officers, who tender their resignations, are entitled to the three months' pay proper the same as that allowed to officers who are mustered out of the War Department. (T. D.; September 19, 1865.)

**Cigars and stamp tax.**

Dealers who have in their possession cigars of either foreign or domestic manufacture on which either an import or excise tax has been paid, are entitled to have the same inspected and stamped. Dealers should avail themselves of this privilege as thereby they secure such cigars against liability to seizure. Sufficient evidence should be given showing that the cigars are imported, or, if of domestic manufacture, that the tax to which they are liable has been paid. (T. D.; August 25, 1865.)

**Assessment of railroad stockholders.**

Under section 122, act of June 30, 1864, a railroad company is liable to the payment of a tax of 5 per cent upon its dividends in scrip or money due or payable to its stockholders as a part of the earnings, profits, income, or gains of such company, and upon all profits of such company carried to the account of any fund or used for construction. To protect the company against the claims of stockholders for the sums so paid, it is authorized to deduct and withhold the tax of 5 per cent from all payments to its stockholders for interest or coupons or dividends due and payable to them, and by the payment of said tax the company is discharged from the payment of that amount of the dividend to the stockholders, unless there is a contract against it. (T. D.; September 12, 1865.)

**Return of stockholder's income.**

Investigation by the Commissioner of Internal Revenue serves to confirm the opinion in the interpretation of sections 116 and 122, act of June 30, 1864, that, when a stockholder in a railroad company makes a return of his income to the assessor he should include therein the sum withheld from him and paid by the company to the Government, and return it as part and parcel of his income from dividends. Under section 122 a tax is imposed upon all profits of railroad companies carried to the account of any fund or used for construction. (T. D.; September 12, 1865.)

**License of commercial brokers.**

The act of June 30, 1864, does not authorize any one to solicit orders for goods without procuring a commercial broker's license. This construction of the law seems to be not only necessary, but clearly equitable. For illustration, if the agent of a New York house appears in another city seeking orders for goods, he conflicts directly with the dealers in such goods in that market, and there is as much propriety in requiring him to be licensed as if he were a pedlar and carried a stock of goods with him. (T. D.; September 6, 1865.)

**Licenses of peddlers.**

If a manufacturer or dealer wishes to take out license in his own name for his peddlers he can do so, provided the name of the actual peddler for whom the license is procured is so inserted as to clearly designate the person authorized to do business under the same, and, if the license conforms to the legal requirements in other respects, it should be held as valid by internal-revenue officers and should protect the person so authorized from arrest and forfeiture of his goods. (T. D.; September 21, 1865.)

**Assessment for fraud or false return.**

Where an inspection shows, on part of a manufacturer, a false return, the assessor should make a thoro investigation of the business of the suspected party under section 14, act of June 30, 1864, giving authority to examine persons, books, and papers, and, in conformity with the best information, to make an assessment of taxes fraudulently withheld, adding the 100 per cent penalty after July 1, 1864. The assessor should then report the case to the collector, who will prosecute for the penalty incurred, unless a satisfactory compromise shall be made, and reported to the Commissioner of Internal Revenue. (T. D.; June 30, 1865.)

**Penalty for unintended fraud.**

If upon investigation an assessor shall find that a party who is suspected of false returns is not guilty of actual and intended fraud, the assessment should be made under section 85, act of June 30, 1865, and the penalty therein provided should be added, instead of the penalty of 100 per cent. (T. D.; June 30, 1865.)

**Dividend payable in gold.**

It is held that when a corporation declares a dividend expressly payable in gold, the tax upon such dividend must be likewise paid in either gold or its equivalent in currency. (T. D.; May 11, 1865.)

**United States property exempt.**

When property belonging to the United States is sold at auction on account of the United States the sale is held to be exempt from taxation. (T. D.; September 1, 1865.)

**Payment of witnesses at appeals.**

The proviso to section 19, act of June 30, 1864, provides for the rates at which witnesses should be paid when attending the appeals of assessors. Altho this is a special provision relating to such cases, yet, as the practise of paying witnesses is universal, it is held that section 19 is applicable to witnesses when summoned in pursuance of section 14, act of June 30, 1865. The expenses arising from such payment are provided by the collector, acting as disbursing agent under the regulations of June 27, 1865. (T. D.; July 26, 1865.)

**Wholesale dealers—No fixt place.**

The fact that a dealer has no warehouse, store, or other fixt place of business does not release him from liability to license tax as a dealer. The dealer selling on commission for his consignees is a factor, a general bailee, charged with the legal custody of the goods, able to sue and liable to be sued, responsible for the fulfilment of the contract, and is the recipient of the price. Every person receiving consignments of merchandise in ships, boats, or cars, and making sales and delivering the same directly from such vessels or cars is liable for license as a dealer, the license covering all his sales. (T. D.; September 27, 1865.)

**Returns of gross receipts—Monthly lists.**

An assessor's return on his monthly list should contain, with the exception of spirits and coal oil, all assessments that are received in time for that list, provided they reach the collector before they become due and payable. Assessments, however, must not be held back for entry on the monthly list to the prejudice of collections, but should be returned on a special list when immediate collection is necessary. (T. D.; July 19, 1865.)

**Gross receipts of insurance companies.**

In determining the amount of their taxable gross receipts for premiums and assessments under section 105, act of June 30, 1864, insurance companies are not allowed to deduct, for taxable purposes, any amount paid by them for reinsurance. The law imposes the tax upon the gross receipts—nothing more, nothing less—and the Bureau of Internal Revenue has no authority to limit the requirements of the statute. (T. D.; October 2, 1865.)

**Incomes in "Confederate" money.**

It is held that where incomes of any kind for 1864 were received in "Confederate" currency, the market value of such currency, estimated in the currency of the United States Government at the time and place of receipt, should be returned as income. (T. D.; September 31, 1865.)

**Publishers' income tax.**

Under the act of June 30, 1864, publishers of newspapers whose receipts therefrom exceed $1,000 per annum are required to be licensed as manufacturers, and the license so issued will cover all sales of their manufactures at or from the place of publication, and also the printing and sale of billheads, circulars, etc. (T. D.; September 30, 1865.)

**Duplicate checks, disbursing officers.**

Assistant treasurers or designated United States depositories are not required to pay duplicate checks. In case of loss of an original check the issue of another original is between the drawer of the check and the person receiving payment, either by bond of indemnity or otherwise. Fiscal officers are not required to pay checks which may have been lost, but are informed to be very careful in reference to their payment. (T. D.; September 30, 1865.)

**Extra pay of military officers.**

The question arising as to whether or not the three months' pay proper granted by section 4, act of March 3, 1865, to military officers at the close of the civil war is liable to the internal-revenue tax of 5 per cent, it is held that it should be deducted by the proper disbursing officer. The extra pay was granted for services gallantly rendered and being for services the tax must be deducted. (T. D.; September 30, 1865.)

**Tonnage tax—Gross receipts.**

It is held by the Department of the Treasury that, under section 103, act of June 30, 1864, ferry boats engaged in the coasting trade, or in carrying goods or passengers between American ports and those of adjacent foreign territories, and being of over 5 tons burden, are liable to tonnage tax, but such boats as are used as ferries only across our inland rivers, or as come within the exceptions of section 37, coasting act of 1793, are exempt from such tax. (T. D.; September 15, 1865.)

**Carriers' gross receipts.**

Paragraph 50, section 79, act of June 30, 1865, imposes a license tax of $10 upon every person or company engaged in carrying articles for pay whose gross receipts therefrom exceed $600 per annum. If cartmen carry coal or any other article for pay, they must procure such license as common carriers if their gross receipts exceed $600 per year. If, however, they are employed at fixt prices per month and not paid by the ton or load, they can not be considered as common carriers, nor as transporters, and are not liable for license tax on gross receipts. (T. D.; August 3, 1865.)

**Lien on arrested soldier's pay.**

It is held that a sutler selling goods on credit to an officer of the Army under arrest must take the risk of collecting his claim by the civil law, the fact of arrest being a valid notice that the arrested officer may not have any pay due him from the Government. If by the verdict of a court-martial the officer's pay is forfeited, the lien provided by act of Congress, March 2, 1862, does not hold in the sutler's favor. (T. D.; August 3, 1865.)

**Fraud in empty whisky packages.**

In view of several cases wherein it is alleged that persons have sold empty packages of whisky in violation of section 59, act of June 30, 1864, as amended by act of March 3, 1865, it is held that under the last paragraph of said section there are two conditions in pursuance of which the penalty provided accrues, viz: First. The selling of such

**Fraud in empty whisky packages**—Continued.

packages without reference to the intent. Second. The fraudulent use thereof by selling other goods than those which the package contained when the inspection mark which it bears was placed upon it. It is the selling of such packages that enables a fraud to be committed. The final provisions of the statute were not enacted for the purpose of procuring revenue from the penalties, but in order that by their enforcement the revenue from the taxes provided may be secured. (T. D.; October 12, 1865.)

**License of produce broker.**

Where a produce broker having license as such sells more than $10,000 worth of produce he is required to take out a commercial broker's license. The new license should be granted from the first day of the month in which the liability thereto accrues, and should be issued on the payment of a ratable proportion of the annual cost of the license. (T. D.; October 10, 1865.)

**Broker's license tax.**

Every person other than one holding a license is a broker, either wholesale or retail dealer, whose occupation it is to buy or sell agricultural or farm products, and is clearly liable to a broker's license. All negotiations of purchases and sales of goods not otherwise provided for in the act of June 30, 1864, under the negotiator are subject to a commercial broker's license tax. (T. D.; August 3, 1865.)

**Payment of bounty.**

The payments of matured instalments of bounty, under the act of July 4, 1864, are not to be charged to the deserter restored to duty. He loses all right to the instalments maturing after his return, whether the bounty he granted by law or otherwise. (T. D.; August 3, 1865.)

**Tobacco tax and seizure.**

The tax on tobacco is specific; it is so much per pound without reference to its value, and there is no authority vested in either the Secretary of the Treasury or the Commissioner of Internal Revenue, in case of seizure, to fix a lower rate under any circumstances than that expressly stated in the law. The question as to how much tax a producer can afford to pay must be determined by himself when he engages in the production of tobacco. (T. D.; October 12, 1865.)

**Cancellation of tobacco stamps.**

When canceling cigar stamps inspectors should put their name on the stamp with pen and ink instead of a stencil, and it is the duty of inspectors to mark the weight on each package marked and inspected by them, the date of the inspection, the State, and the district. The inspectors may employ deputies and assistants to do their work. (T. D.; October 5, 1865.)

**Stamps on bills of lading.**

A domestic bill of lading is liable to the same stamp tax as a receipt. If it is issued in triplicate form the duplicate and the triplicate should each be stamped the same as the original. The fact that the stamp is affixt to the shipping receipt in no way changes the liability of the bills of lading. (T. D.; October 15, 1865.)

**Tax on sorghum mills as manufacturers.**

It is held that the owners of sorghum mills engaged in manufacturing molasses on commission, of either a certain price per gallon or a certain proportion of the product, are included in the definition of manufacturers as given in section 79, paragraph 31, act of June 30, 1864, and are liable to the license tax therein imposed, provided the value of the molasses manufactured by them during the year of license shall exceed $1,000. (T. D.; October 14, 1865.)

**License of peddlers in selling liquor.**

The act of June 30, 1864, does not authorize peddlers to sell spirits or malt liquors without taking out license as liquor dealers, wholesale or retail, as the case may be. From the circumstances of the case, the license of such peddlers must be drawn in general terms, so as not to conflict with the provisions of section 74 of the aforesaid act, as to place of business. (T. D.; October 18, 1865.)

**Stamping leases of oil lands.**

Under the head of mortgages in Schedule B, act of June 30, 1864, as amended by the act of March 3, 1865, it is provided that, "upon each and every assignment of any lease," a stamp tax shall be required and paid equal to that imposed upon the original instrument, increased by a stamp tax upon the consideration or value of the assignment equal to that imposed upon the conveyance of land for a similar consideration. The amount of stamp tax upon leases of oil lands, for intance, must depend upon the estimated annual rent or rental value. (T. D.; October 9, 1865.)

**Salary tax on owners of public buildings.**

The owners of buildings rented to the Government are not, by reason of that fact, employees of the Government in any capacity, civil, military, or naval, whatever may be their status in other respects. Consequently, when a quartermaster disburses money on account of such rental, he is not required to withhold the salary tax from such payments under the internal-revenue laws. (T. D.; October 17, 1865.)

**Taxation of profits per annum.**

Under section 116, act of June 30, 1864, profits derived from any source whatever are taxable as income, except it be otherwise specially provided, as in the case of profits derived from sales of real estate purchased in a previous year. (T. D. October 24, 1865.)

**Insurance agents and brokers.**

It is held that persons employed by insurance agents to survey risks, draw applications, etc., but who sign neither policies nor applications for insurance do not, by reason of such employment, become liable as insurance agents. Persons who act on behalf of the party desiring to be insured should be held subject to license tax as insurance brokers. (T. D.; May 5, 1865.)

**Tax on widow's income.**

Where a testator died, leaving a widow and a son, the widow being bequeathed a life estate in the property, unless she shall again marry, it is held that the Government can not be allowed to suffer detriment thru any peculiarity of the terms of a will, and that in this case the possible marriage of the widow must be left out of consideration in the assessment of tax upon income. Hence, the widow must be regarded as taking the entire income of the estate during her life. She is liable to tax on the legacy. (T. D.; August 12, 1865.)

**Commercial broker's license.**

Referring to decision 159, relating to parties traveling thru the country seeking orders for goods, it is held that the law makes no distinction as to persons, the business done determining the question of liability. If, therefore, a person does the business of a commercial broker, he is liable to tax as such, notwithstanding any other license he may have; nor is it material in what manner he receives his compensation, if any, for his services. (T. D.; October 19, 1865.)

**Commission sales of manufactures.**

Where manufacturers habitually employ auctioneers and commission merchants to whom their goods are consigned, the goods so consigned are not subject to tax before actual sale and the return of such sale has been made to the manufacturer. But

**Commission sales of manufactures**—Continued.

goods consigned to auctioneers and commission merchants only occasionally and not in the usual mode of marketing them, are liable to tax on leaving the place of manufacture. The gross proceeds of the sales should be returned. (T. D.; October 23, 1865.)

**Assessment of increased values.**

The conditions set forth in section 95, act of June 30, 1864, as authorizing the assessment of revenue tax on increased values are these, viz: (1) The article must be the product of manufacture; (2) an import duty or an excise tax must have been previously paid thereon; (3) the article must be one not specially provided for under any other section of the law; and (4) the original character or purpose for which the article was intended or made to be used must not be changed. (T. D.; December 3, 1865.)

**Mode of assessing increased values.**

The mode of ascertaining increased values and assessing the tax on articles taxed on the increased value, under section 94, act of June 30, 1864, is the same as that under section 95 of that act, but the rate of tax is 6 per cent instead of 5 per cent. (T. D.; December 3, 1865.)

**Manufacturer defined.**

Section 79, paragraph 31, act of June 30, 1864, defines a manufacturer to be any person firm, or corporation who shall manufacture by either hand or machinery any goods, wares, or merchandise exceeding annually the sum of $1,000 in value. Therefore, any person, firm, or corporation who shall manufacture by either hand or machinery any of the articles exempted from excise tax by section 96 of the act of 1864 are to be regarded as manufacturers and are liable to take a manufacturer's license. (T. D.; November 6, 1865.)

**Returns of savings banks.**

In view of the fact that, in some localities, certain savings banks are not making returns of payment required by law since April 1, 1865, attention is called to the fact that the proviso to section 110, act of June 30, 1864, exempting savings banks having no capital stock and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, having been stricken from the statute, this class of banks is subject to the general provisions of the aforesaid act and should make returns and pay the tax required by section 110 thereof. The amount of the deposits invested in United States gold-bearing bonds may be deducted, but the surplus fund should be regarded as capital and added to the amount of deposits from which the amount of bonds may be taken. (T. D.; October 20, 1865.)

**Commercial brokers.**

Under paragraph 14, section 79, act of June 30, 1864, as amended, every person negotiating sales or purchases of goods, wares, produce, or merchandise, not otherwise provided for in the act, or seeking orders therefor in either original or broken packages is to be regarded as a commercial broker under the act. Unless, therefore, a person sells at wholesale the articles named in the second proviso, paragraph 32, section 79, act of 1864, he is liable to license as a commercial broker. (T. D.; November 30, 1865.)

**Stamping bills of lading.**

Answering the question, "Are bills of lading subject to stamp tax," it is held that stamp tax upon bills of lading depends in no wise upon the stamp tax on receipts. The instruments are given for two distinct transactions and each must bear the appropriate stamp. If more than one bill of lading is issued each must be stamped as an original. (T. D.; November 28, 1865.)

**Refunding taxes on damaged goods.**

In regard to applications, addressed to the Commissioner, for the refunding to manufacturers of taxes already paid on goods returned to them in a damaged condition, it is held that the law does not authorize the refunding of such taxes. Section 94, act of June 30, 1864, which regulates the matter, simply requires that upon all such goods "which shall be produced and sold, or be manufactured, or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption, or for delivery to others than agents of the manufacturer or producer, there shall be levied, collected, and paid the following duties or taxes," etc. (T. D.; November 23, 1865.)

**Receipts given for checks.**

It was formerly held by the Commissioner of Internal Revenue that a receipt given for a stamped check was exempt from stamp tax. It is now held that receipts for checks, notes, drafts, or orders, when received as payment of a sum of money or of a debt due, exceeding $20, is liable to stamp tax, the same as a receipt for money paid. (T. D.; December 8, 1865.)

**Commercial broker's license.**

A person traveling about the country, whether a manufacturer or dealer, negotiating sales of goods by the single piece, or more or less than one piece, but not in original or unbroken packages, requires a license. The business here indicated is that of a commercial broker, and he must be licensed as such. It is held, also, that, under paragraph 2, section 79, act of June 30, 1864, license as a dealer shall not allow such person to act as a commercial broker, and much less would a dealer's license permit his employee to do the business of a commercial broker. (T. D.; November 13, 1865.)

**Deduction on commissions.**

In response to inquiries as to what deduction for purposes of revenue tax should be allowed on the expenses and salaries of traveling agents representing manufacturers, it is held that the salaries and expenses of such agents are to be regarded as commissions and, as such, are entitled to a deduction of 3 per cent. (T. D.; November 16, 1865.)

**Tax on lubricating oils.**

All lubricating oils, whether made from crude paraffin, purified for lubricating purposes, or mixtures of petroleum tar, red oil, whale and fish oils, lard oil, or other animal, vegetable, or mineral oil, prepared and sold as lubricating oil, are subject to an ad valorem tax of 6 per cent. (T. D.; December 13, 1865.)

**Banks' and broker's tax.**

Under section 79, subsection 9, act of June 30, 1864, the license of a banker covers the business of a broker as far as the liability to license is concerned. But banks engaged in selling gold, certificates of indebtedness, and other Government securities for account of their dealers and correspondents, without the intervention of a broker and for a commission, are liable to broker's tax on sales. (T. D.; December 12, 1865.)

**Sales by executors and administrators.**

The proviso to section 98, act of June 30, 1864, applies only to public sales made by judicial or executive officers themselves or by guardians, executors, or administrators, as such, and not to sales made by licensed auctioneers for them. While the proviso has no reference to trustees simply as such, it might include persons acting as trustees, who were also guardians, executors, or administrators. (T. D.; December 19, 1865.)

**Remission of wholesale dealer's assessment.**

In a case where it was claimed by a wholesale dealer that a part of his license for the year should be remitted on the ground that the firm had ceased to exist before the year expired, it is held that as the law, as amended by the act of March 3, 1865, requires that "any wholesale dealer's license shall not be for a less amount than his sales for the previous year," and as the statute makes no provision for release from any portion of such assessment, there is no authority in the Bureau of Internal Revenue to entertain a claim for relief. (T. D.; December 19, 1865.)

**Tax on "political banners."**

In deciding the question whether "political banners" may be regarded for purposes of taxation the same as awnings and subject to a tax on the increased value of the material of which they may be made, the Commissioner holds that sails, tents, shades, awnings, and bags are especially provided for under section 94, act of June 30, 1864, and taxable upon only the increased value of the material when such material has paid a tax. Banners are not regarded as sails, tents, shades, awnings, nor bags, being a distinct and separate manufacture and liable on their entire value under section 94, act of 1864, as amended March 3, 1865, imposing a tax of 6 per cent. (T. D.; November 24, 1865.)

**Firms as commercial brokers.**

A firm may do business as commercial brokers under their license as such so long as they do the business as a unit at the place named in the license. But if they do business separately, the license will protect the immediate holder only, and by section 74 of the amended act of June 30, 1864, every person doing business for which a license is required must, on demand of any internal-revenue officer, produce such license, or be taken and deemed to have none. The safer plan would be for each party to have a separate license, and so avoid unnecessary liability to penalty. (T. D.; January 3, 1866.)

**License for manufacturer of cheese.**

In pursuance of paragraph 31, section 79, act of June 30, 1864, it is held that a farmer who makes butter and cheese to the value of $1,000 per annum is required to take out a manufacturer's license, the law imposing a tax on "goods, wares, or merchandise manufactured by hand or machinery." Cheese and butter are held to be articles of "merchandise" made or fabricated from raw materials "by hand, by art or machinery, and worked into form convenient for use." (T. D.; December 18, 1865.)

**Inspection of cigars.**

It is held to be improper for any cigar inspector to inspect cigars of his own manufacture, and in no case will the Bureau of Internal Revenue knowingly approve the appointment of a cigar manufacturer to the position of inspector. (T. D.; October 6, 1865.)

**Insurance gross receipts.**

It is held that in determining the amount of their taxable gross receipts from premiums and assessments insurance companies can not deduct the amounts paid for reinsurance. (T. D.; October 2, 1865.)

**Tax on legacy or distributive shares.**

If, after payment of the debts of a decedent's estate and the expenses of administration, the amount of the personal property passing from the same exceeds the sum of $1,000 in actual value, each legacy or distributive share is liable to the legacy tax, except where either the wife or the husband of the decedent receives the same legacy. (T. D.; September 19, 1865.)

**Exemption of agricultural exhibitions.**

Evidently it was not the intention of Congress to include exhibitions held by agricultural societies within the provisions of the revenue law as subject to tax, inasmuch as such exhibitions are not given for pecuniary profit, but for the purpose of encouraging agriculture. It is held, therefore, that agricultural exhibitions are exempt from license tax on gross receipts. (T. D.; September 19, 1865.)

**License of contractors and dealers.**

It is held by the Bureau of Internal Revenue that if the rate of a dealer's sales for the year exceeds $25,000, he should be required to take a wholesale dealer's license. It is held also that the fact of subletting contracts for building does not relieve the original contractor from his liabilities under paragraph 46, section 79, act of June 30, 1864. Subcontractors are equally liable to license as original contractors in any case, according to the amount of their contracts. (T. D.; November 6, 1865.)

**Drawback on vessel building.**

In relation to assessing the tax on vessel building for parties in a foreign country, contracting for the same, the Commissioner of Internal Revenue reaffirms a former ruling to the effect that drawback can not be allowed upon ships. (T. D.; October 4, 1865.)

**Cotton shoddy tax.**

The Commissioner rules that cotton shoddy is liable to tax under the general provision of section 94, act of June 30, 1864, as a manufacture not otherwise provided for, and the tax thereon must be assessed and paid. It matters not whether the shoddy is sold or is used by the producer in the manufacture of other articles. (T. D.; September 23, 1865.)

**Manufacturers' agents.**

Auction and commission merchants who are habitually resorted to by the manufacturer to make sale of his goods are held to be "agents" within the meaning of the act of June 30, 1864, but not so if they are only occasionally employed. Goods consigned to auction and commission merchants who are habitually employed are not subject to tax prior to actual sale and the return of such sale to the manufacturer. Goods consigned to such merchants only occasionally, and not in the usual way of marketing them, are taxable on leaving the manufactory. Revenue officers will decide as to the deductions to be made on gross receipts. (T. D.; October 23, 1865.)

**Bank taxed as a broker.**

Where a bank agrees to deliver to one of its customers a certain amount of gold in New York City, the customer paying to the bank the full cost of the gold and a commission of 1 per cent, it is held that the transaction is one for the purchase and sale of "bullion" or "coined money," of which the draft or order is, in part, the evidence, and the bank is doing the business of a broker. As such the bank is liable, according to the provisions of section 99, act of June 30, 1864, to pay a tax upon the amount of the sale. (T. D.; January 10, 1866.)

**Cancellation of adhesive stamps.**

In conformity with the provisions of section 16, act of June 30, 1864, relating to the cancellation of adhesive revenue stamps, it is required that the person using or affixing the same shall write thereupon the initials of his name and the date when the stamp is attached or used, so that the same may not be used again. It is provided also in the same section that the proprietor of any proprietary article subject to tax under Schedule C may furnish his own dies or designs for stamps, instead of writing, and shall so affix the stamps on the boxes, bottles, or packages that in in opening the same the stamps will be effectually destroyed. A violation of these

**Cancellation of adhesive stamps**—Continued.

requirements will subject the offender to a fine of $50. These requirements are necessary to the prevention or to the punishment of fraud. (T. D.; January 16, 1866.)

**Brewers' deductions.**

The Commissioner of Internal Revenue decides that brewers may be allowed to deduct from their returns the amount of beer that has become sour on their hands, or which is returned to them in that condition, but no deduction can be allowed for the amount of beer consumed by their workmen or for the amount that may be presented as a gift to customers. (T. D.; December 27, 1865.)

**Penalty for sales of empty spirit casks.**

Interpreting section 59, act of June 30, 1864, as amended by the act of March 3, 1865, in relation to the purchase and sale of empty casks, with the inspection marks thereon, it is held that the object of the law is to prohibit the traffic. The penalty of $300 is intentionally severe. Both parties to the sale are liable. It is held also that where there is a purchase or sale of an empty spirit cask with the inspection marks thereon the intent of the parties is immaterial, or rather the proof of the fact is in itself conclusive as to the intent. (T. D.; January 3, 1866.)

**Bonds of counties and cities exempt.**

Bonds and notes given by counties, cities, or towns are held to be exempt from stamp tax, inasmuch as the imposition of a tax upon such instruments would be equivalent to a charge on the public treasury. (T. D.; November 21, 1865.)

**Omission of stamps remedied.**

In the case of the Corry National Bank *v.* A. L. Rouse, in the court of common pleas of Erie County, Pa., the opinion of the court being delivered December 13, 1865, by Judge Johnson, as to the nonstamping of taxable instruments under the internal-revenue laws it was *Held*, that (1) no instrument is rendered void by the omission of the requisite revenue stamp unless it is done "with intent to evade the provisions of the act." (2) The one hundred and fifty-eighth section of the revenue act makes the collector of revenue of the proper district the judge whether the omission was with or without "any wilful design to defraud" the United States of the stamp tax, and from his judgment, if favorable, there is no appeal. (3) When the collector has put on and canceled the requisite stamps the instrument is valid to all intents and purposes ab initio. (4) Promissory notes and bonds are not the instruments referred to in the one hundred and fifty-second section of the internal-revenue law. (5) The want of proper cancellation of the stamp subjects the offending party to a penalty of $50, but does not render the instrument void. (December 13, 1865.)

**Domestic bills of lading.**

All bills of lading contain an agreement or contract. Domestic and inland bills of lading not being expressly exempt from tax are regarded as falling under the general provisions of the act of June 30, 1864, and as subject to tax, not as "bills of lading" with 10 cents each, but with 2 or 5 cents, according to whether they are receipts simply or agreements. If stamped in sets of two or three each one should be stamped. (T. D.; January 24, 1866.)

**Bonds of distillers—Renewal.**

In pursuance of section 53, act of June 30, 1864, the minimum amount of the distillers' bond should be double the amount of taxes upon the monthly production of his distillery, notwithstanding any portion of it may be placed in bond. The collector should require a new bond whenever he has reason to believe that the sureties, or any one of them, have acquired an interest in the distillery, or that any of them are unable or are about to become unable to respond to the amount for which they have justified. The security must be equal to the risk. (T. D.; January 26, 1866.)

**Gross receipts of roads, ferries, bridges.**

Section 103, act of June 30, 1864, as amended by the act of March 3, 1865, imposes upon any person or persons, firms, companies, or corporations owning, possessing, or having the care or management of any toll road, ferry, or bridge authorized by law to receive tolls for the transit of passengers, etc., over such toll road, etc., a tax of 3 per cent on the gross amount of all their receipts, provided the gross receipts exceed $1,000 per annum. When the gross receipts of such lines of transportation do not exceed the amount expended to keep them in repair, no tax is imposed on such receipts. (T. D.; January 29, 1866.)

**Excise law.**

The general principle of the excise law is that each particular manufacture is taxed for its value, tho articles used in its production are in themselves manufactures on which the tax has been already paid. (T. D.; January 30, 1866.)

**Stamp tax on bonds.**

The law requiring stamps on conveyances, bonds, notes, etc., took effect October 1, 1862, and no stamps are necessary on instruments issued prior to that date. * * * An instrument subject to stamp tax, but issued and used unstamped prior to August 1, 1864, may be made valid by stamping it as required by section 163, act of June 30, 1864. If issued since that date the case falls under section 158, act of 1864, as amended by the act of March 3, 1865. (T. D.; January 30, 1866.)

**Warrant of attorney secured by mortgage.**

No stamp is required on any warrant of attorney accompanying a bond or a note when such bond or note has affixt thereto the stamp or stamps denoting the required tax. Whenever any note or bond is secured by mortgage, only one stamp is required, the tax being the highest rate necessary for such instruments. In such case a note or memorandum of the value or denomination of the stamp should be made on the margin or in the acknowledgment of the instrument which is not stamped. (T. D.; January 30, 1866.)

**Succession tax.**

By the terms of section 127, act of June 30, 1864, every past or future disposition of real estate by will, deed, etc., whereby any person shall become beneficially entitled, in either possession or expectancy, to any real estate or the income thereof upon the death of any person dying after the passage of this act shall be deemed to confer on the person entitled by reason of such disposal a "succession" for taxable purposes. (T. D.; February 3, 1866.)

**Liquor dealers, wholesale and retail.**

Persons who sell liquors from wagons are held to be either wholesale or retail dealers in liquors, as the case may be. If such persons sell liquors in quantities of more than 3 gallons at one time to the same purchaser, or if their sales, including sales of other merchandise, exceed $25,000 annually, they must take license as wholesale dealers in liquors, and if they sell liquors in quantities of 3 gallons or less and their annual sales do not exceed $25,000, a retail license will cover the business. (T. D.; January 31, 1866.)

**Commercial brokers and agents.**

By section 74, act of June 30, 1864, as amended by the act of March 3, 1865, wholesale dealers are restricted in their business to the place named in their license, and it is provided in paragraph 2, section 79, of that act that a wholesale dealer's license shall not allow such a party to act as a commercial broker. Much less can a clerk of such dealer, under the license of his employer, do the business which said employer is expressly forbidden to do. If the dealer or any one of his clerks desires to do the business of a commercial broker he must take out a license as such.
(T. D.; January 17, 1866.)

**Penalties for fraudulent returns.**

Relating to assessing penalties in cases of fraudulent or understated returns, the 100 per cent penalty imposed by section 14, act of June 30, 1864, is held to apply to only the returns that should be entered on the annual list, having no reference to manufacturers' returns. The 50 per cent penalty covers all penalties to be assessed in the case of fraudulent or understated returns of manufacturers. In all cases the assessed penalties are to be assessed on the amount of assessments found to be due. (T. D.; February 3, 1866.)

**License under section 96, act of 1864.**

Parties who are liable to license as manufacturers and who have not taken license as either manufacturers or dealers should be required to make immediate application for license. The time from which the license is to date will depend on the nature of the business. Persons who have taken a dealer's license for the sale of any article mentioned in section 96, act of June 30, 1864, need not be required to make any change until the expiration of the present license. (T. D.; December 6, 1866.)

**Deductions—Increased value.**

In regard to deductions for taxable purposes from the increased value of manufactures, it is held that the commission of 3 per cent may be deducted when the goods are sold by the manufacturer or producer. The person who increases the value of an article can be regarded as a producer or as a manufacturer of that article only so far as he has increased its value, and he is entitled to the 3 per cent commission to that extent only. (T. D.; January 25, 1866.)

**License of insurance agents and secretaries.**

The Commissioner of Internal Revenue, referring to the ruling made August 19 1865, respecting insurance agents, holds, upon a reconsideration of that ruling, that it is thought not to have been the intention of Congress to impose a license tax on the secretaries of insurance companies for transacting the business ordinarily done by them at the offices of their respective companies, such as keeping the records, receiving applications at the offices, and issuing policies when lawfully authorized. (T. D.; February 15, 1866.)

**Assessment of delinquent taxpayers.**

Where it is discovered that a party has been making false or fraudulent returns and the assessor or assistant assessor has made, in pursuance of section 14, act of 1864, an estimate of the returns that should be made, assessing the tax accordingly if the party "proposes to compromise by paying the Government a certain sum," and this proposition, with the indorsement of the assessor and collector, is submitted to the Commissioner for approval or rejection, it is within the Commissioner's authority, in view of the delinquency, to determine whether the proposal shall be accepted in lieu of the penalties incurred. (T. D.; January 17, 1866.)

**Drawback on manufactures shipped.**

Deciding the question whether deductions for taxes paid on manufactured articles shipped to foreign ports, for which the manufacturers made no application for drawback, altho knowing their rights, it is held that no deduction can be allowed for taxes so paid when for a long series of months their returns have been false or fraudulent. (T. D.; January 29, 1866.)

**Tax on ships or vessels.**

In reply to a request for ruling as to the basis on which should be estimated the tax on the repairs of ships it is held that the general rule should be that when the thing to be repaired is a unit, tho made up of taxable parts, the repairs are to be regarded as pertaining to the unit. If the repair is upon a ship, the hull, as finished, inner

**Tax on ships or vessels**—Continued.

and upper works, constitutes the unit; if an engine, everything pertaining to the engine, excepting the boiler, which the law regards and provides for taxing especially. (T. D.; January 12, 1866.)

**Taxable profits of corporations.**

In conformity with the uniform rulings of the Bureau of Internal Revenue it is held that in determining the amount of taxable gains of a corporation under section 120, act of June 30, 1864, only such losses as were ascertained and settled during the period covered by the return can be deducted. (T. D.; May 19, 1866.)

**Liquor dealer's license limited.**

As to the ruling of this office, made June 14, 1865, to the effect "a license as liquor dealer covers the sale of merchandise," the ruling is reaffirmed, but it is held that the keeper of an eating house must have a separate license, whether he sells liquor or not. Under no circumstance can one license cover both avocations. (T. D.; March 15, 1866.)

**Commercial brokers and peddlers.**

As to the distinction between commercial brokers and peddlers it is held a dealer who sends out an agent, clerk, or other person with goods to sell should have a peddler's license. Therefore the dealer in making return of his annual sales should include all sales made for him by peddlers in the amount on which his license tax should be assessed. (T. D.; March 13, 1866.)

**Legacy taxes.**

It is held that no legacy tax accrues where a person died prior to July 18, 1862, and no succession tax accrues where a person succeeds in possession of real estate after June 30, 1864, which had been enjoyed by a life tenant, the succession tax accruing whether the predecessor died before or after June 30, 1864. No essential difference appears between the requirements of section 3, act of 1862, and those of section 124, act of June 30, 1864, except as to the rate of tax. The property is held to pass, in either case, upon the death of the decedent. (T. D.; March 2, 1866.)

**Income from real estate—Deductions.**

Under section 117, act of June 30, 1864, the salary of a person employed to take care of real estate is deductible from the income due to rents and the profits thereof derivable from the estate by the person paying the salary. The person receiving the salary should return the same as part of his income liable to tax. (T. D.; March 23, 1866.)

**Assessments—Expense of appraisers.**

The law makes no provision for reimbursing an assessor for the expense incidental to the employment of appraisers in the independent valuation of successions where the amount of the assessment does not exceed the tax assessable according to the return. When, however, the independent assessment does exceed the tax assessable according to the return, the assessment for expenses should be included in the list and the entire assessment collected, paid over to the Government, and credited in the usual manner. (T. D.; March 27, 1866.)

**Succession—Tenant by courtesy.**

Where a wife at the date of marriage has a separate estate in realty and thereafter dies without a will and without having disposed of such estate, leaving as survivors the husband and their children, it is held for taxable purposes that the husband became at the death of the wife a life tenant by courtesy, and therefore on the happening of that event no succession was conferred on him such as would make him liable for a succession tax. The children will be liable to a tax of 1 per cent on the value of the real estate when they become entitled in possession to the succession upon the death of the tenant by courtesy. (T. D.; March 29, 1866.)

**Succession and legacies.**

Where an executor by will receives all of an estate for a period of years, until sold, and the children none, the executor is required, for purposes of taxation, to make returns of the present worth of his interest, and, when the estate is sold and divided, he should make return for each heir of what is now a remainder, or a reversion in expectancy. (T. D.; March 19, 1866.)

**Returns made on basis of currency valuation.**

The Commissioner approves the practise of assessors who require manufacturers to add to the returns of their sales made for gold coin the current rate of premium at the time of making such returns, the practise being based on the ruling dated February 4, 1865, to the effect that returns should be made and taxes assessed upon the basis of the currency in which the taxes are paid. (T. D.; February 27, 1866.)

**Tobacco, remanufactured or reworked.**

The Commissioner decides that the privilege of remanufacturing or reworking old and damaged tobacco without payment of current rates of tax, in the Southern States, is inconsistent with the general provisions of law and open to great abuse. It is, therefore, withdrawn on and after April 15, 1866, in conformity with instructions given on the subject by the Secretary of the Treasury. Said tobacco shall thereafter be inspected and branded as new tobacco, and subjected to the same rates of tax as like descriptions of tobacco made from new material or from natural leaf. (T. D.; March 30, 1866.)

**Incomes of manufacturers.**

In relation to the income returns of manufacturers, assessors are advised that if they believe that any person in their district has made a fraudulent return of his income they should inspect his accounts, etc., and if it appear that there is an intent to defraud the revenue a reassessment should be made, adding 100 per cent to the amount so assessed, by way of penalty, and the case should be reported to the collector for prosecution. (T. D.; March 20, 1866.)

**Licenses of lottery-ticket dealers.**

It is held that a person who sells lottery tickets or tickets for a "gift concert" or "gift enterprise," traveling from house to house, should have a lottery-ticket dealer's license, drawn in general terms, so as to embrace the territory thru which he proposes to travel, as is often done in the case of a commercial broker or a produce broker. (T. D.; March 20, 1866.)

**Dividend in scrip—Stock dividend.**

The term "dividend in scrip," as used in section 120, act of June 30, 1864, is held to include what is commonly called a "stock dividend." (T. D.; March 21, 1866.)

**Deposits of savings banks.**

In reply to the question, whether the surplus of a savings institution is to be rated according to the market value of the stocks in which it is invested, it is held that in determining the average amount of a savings bank's surplus for the month—the same being liable to tax as deposits—the par value of the stocks in which such surplus is invested should be taken as the basis of calculation. The same rule determines the average amount of United States bonds to be deducted from taxable capital. (T. D.; April 3, 1866.)

**Stamping instruments issued without stamps.**

In relation to stamping instruments issued without stamps or insufficiently stamped, the rule is that if any instrument subject to stamp tax was issued after October 1, 1862, and prior to August 1, 1864, unstamped or insufficiently stamped, the appropriate stamp may be affixt in the presence of the court, register, or recorder, in accordance with section 163, act of June 30, 1864. Any instrument issued since

**Stamping instruments issued without stamps**—Continued.

August 1, 1864, either unstamped or insufficiently stamped, may be stamped by the collector on payment for the proper stamp and of a penalty of $50. (T. D. March 16, 1866.)

**Remission of penalty for nonstamping.**

If an unstamped instrument is presented to the collector within twelve calendar months from its issue, the collector is authorized to remit the penalty, provided it appear to his satisfaction that the omission to stamp it was due to accident, mistake, inadvertence, or urgent necessity, and without wilful design to evade or delay the payment of stamp tax. (T. D.; March 16, 1866.)

**Instruments unstamped made valid.**

Deputy collectors, unless acting as collectors under section 39, have no authority to affix stamps or remit penalties under section 158, act of June 30, 1864. The stamp to be affixt to an instrument is that required by the law existing at the time when the instrument was made, signed, and issued. When an instrument is properly stamped under either of the afore-mentioned sections, the stamping relates back to the time when the instrument was issued, and renders it valid to all intents and purposes. (T. D.; March 16, 1866.)

**Tobacco tax—Manufactory removal.**

A tobacco factory, with the tobacco appertaining thereto, may be removed by a manufacturer without paying tax on the manufactured tobacco as would be required in ordinary cases of removal. The assessor of the district into which the manufacturer moves, if from one district to another, should be furnished with the manufacturer's account, inventory, returns, etc., to the date of his removal by the assessor of the district he leaves, as a guide to his liability in his new place of business. (T. D.; March 24, 1866.)

**Money for damages, neither legacy nor income.**

Tax assessors are advised that it has always been the rule of the Bureau of Internal Revenue to regard money paid and received in liquidation of damages as neither legacy nor income, for purposes of taxation. (T. D.; March 30, 1866.)

**Stamping partition deeds.**

When land is held by parties as tenants in common and an equal partition is made, the deeds are not liable to stamp tax, inasmuch as there is no sale but a mere defining the boundaries of the portion which each party owns, after the partition, the estate owned by each being the same as before. If, however, any money is paid by one party to the other because the share taken by one is greater than that of the other, then the deed from the greater grantor should be stamped in proportion to the greater consideration. (T. D.; March 19, 1866.)

**Accident insurance agents.**

When the general ticket agent of a railroad company holds an insurance agent's license none should be required of his subordinates; that is, the ticket agents at the various stations on the line of the road. The license of the general agent is held to cover the transactions of the subordinates in selling "accident insurance tickets" at the various stations. (T. D.; March 31, 1866.)

**Auction sales, when exempt.**

In construing the law as set forth in section 98, act of June 30, 1864, in regard to the tax on auction sales made for judicial officers or guardians, it is held that no auction sales are exempt from the tax, except those made by judicial or executive officers in person, making sales in pursuance of the judgment or decree of a court, or sales made by guardians, executors, or administrators, as such, in person. (T. D.; February 14, 1866.)

**Manufacturers' own repaire.**

Manufacturers who repair their own machines or implements are liable to tax on the repairs so made, provided the machines or implements are thereby increased in value 10 per cent or more. The same liabilities attach to repairs made on articles owned by the manufacturer as on articles owned by other parties. (T. D.; March 24, 1866.)

**Liability for tax on repairs.**

In regard to liability for taxes on repairs, it is ruled that the party deemed liable under the act of 1864 is the one who is held to be the manufacturer, repairing being classed as manufacturing. He may be the blacksmith, the wheelwright, or the party who hires the work done. (T. D.; March 12, 1866.)

**Commercial and produce brokers.**

The sales made by a produce broker thru other parties should be counted with those made by himself, in determining his liability to take license as a commercial broker, under section 74, act of June 30, 1864. In such case the license—the commercial broker's license—should be issued on the payment of a ratable proportion of the annual cost of such license, dating from the first of the month when the liability accrued. (T. D.; April 12, 1866.)

**License of accident insurance agents.**

The general ticket agent of a railroad company, if he acts as the agent for an accident insurance company, must take out license as an insurance agent, and his license covers the sales of the subordinate railroad ticket agents at stations on the same railroad, no license being required of them; but his license does not cover the sales made by conductors, newsboys, hotel keepers, and others, each of whom, if he sells the tickets, must take out a license for himself as an insurance agent. (T. D.; April 13, 1866.)

**Assessment of wholesale dealers.**

As to whether an importer who generally allows a cash discount of 5 or 6 per cent is entitled to deduct said discount from the amount of his sales when making his returns, it is held that the wholesale dealer should make returns of the gross amount of his sales; that is to say, the amount for which the goods were actually sold. (T. D.; March 30, 1866.)

**Coastwise bills of lading.**

Where the agents for ships sailing from New York to San Francisco inclosed to the Commissioner of Internal Revenue a blank receipt and a blank bill of lading, asking whether they should use the former with a 2-cent stamp and the latter as a coastwise bill of lading without stamp, it being supposed that all ships sailing from New York to San Francisco are cleared at the custom-house as coastwise and entitled, therefore, to use free bills of lading, it is held that the receipt is liable to a 2-cent stamp and the bill of lading to a tax of 5 cents, as an agreement or contract. When such bills are issued in sets of two or more, each of them should be stamped as an original instrument. (T. D.; April 13, 1866.)

**Gifts of personal property as income.**

Gifts of personal property, made and distributed since the passage of the act of June 30, 1864, should be regarded as income and as such subjected to tax. (T. D.; April 17, 1866.)

**Exemption of gross receipts.**

As to the liability of carriers to tax on gross receipts, it is held that only the proprietors of such conveyances as do a promiscuous business, transporting persons and property wherever and whenever a job is offered, having no established routes between fixt points, are exempt from tax on gross receipts. (T. D.; April 18, 1866.)

**Income—Mortgage.**

The office of the Commissioner of Internal Revenue makes a ruling in the following case, viz: "A lends to B $5,000 for five years, and says to him: 'If I take a mortgage on your farm the interest on the same will be taxable, therefore, give me a deed of the farm and I will stipulate to reconvey the property to you upon payment of $7,000 at at the end of five years.'" It is held that this transaction is equivalent to giving a mortgage, and the annual gain realized by the lender of the money must be returned as income for purposes of taxation. (T. D.; April 9, 1866.)

**Life insurance exempt from excise tax.**

Sums of money paid by life insurance companies on policies of life insurance are not subject to tax as either legacies or incomes under the excise law. (T. D.; April 23, 1866.)

**Tax on traveling employees and agents.**

For the purpose of modifying decision No. 159, relating to license tax for traveling employees and agents, it is now held that persons traveling about the country as agents of manufacturers or dealers, seeking orders for goods as agents for one person or firm only, such as salaried clerks or men hired by the month, should not be required to take license as commercial brokers. (T. D.; April 27, 1866.)

**Tonnage tax.**

Tonnage tax on vessels engaged in the coastwise trade is paid for the calendar year, expiring with it, and is payable with the first entry on the next calendar year. (T. D.; February 27, 1866.)

**Brokers, and bankers doing business as brokers.**

Construing the internal-revenue laws with reference to tax on sales of stocks, exchange, coined money, bank notes, promissory notes, etc., by brokers, and bankers doing business as brokers, it is held in conformity to a ruling of the United States Supreme Court: First, that brokers are liable to a tax upon the sales of their own stocks, exchange, bullion, coined money, bank notes, promissory notes, and other securities, as well as upon those belonging to others; second, that bankers doing a general business as such, making returns and paying taxes upon their capital and deposits, who sell Government securities as governmental agents and who buy and sell Government securities for themselves, and do not for others or for a commission, are liable to tax upon such sales. It is also the rule of this office that, when a banker sells not only his own stocks, but stocks for others on a commission, he is liable to tax on all his sales, as a banker doing business as a broker. (T. D.; May 5, 1866.)

**Penalty—Income tax.**

In a case where a person has paid the tax due and the penalty assessed for 1864, but claims that he should not pay a penalty for failure to make return of income for 1862 and 1863, inasmuch as no notice was served upon him, it is held that the sections of the act of 1862, which relate to the matter, do not require that a notice to make return shall be given. Section 93 of the act of 1862, in its own terms, and by reference to section 6, defines what constitutes neglect or refusal to make such return and does not require "notice" as an element thereof. The penalty for neglect is stated in section 11, act of 1862. (T. D.; March 23, 1866.)

**Deeds to trustee for wife.**

Where real estate is conveyed from a husband to the wife through a third person, without any consideration passing, the deeds from the husband to the trustee and from the trustee to the wife are not regarded as conveyances within the meaning of the law subject to stamp tax. (T. D.; April 24, 1866.)

**Income—Depreciation of value.**

It is held as a universal rule that a mere depreciation in value of property can not be taken into account in estimating income, unless the property is actually disposed of and a loss realized. (T. D.; April 16, 1866.)

**Appointments of guardians for lunatics, not taxable.**

It is held that ex parte applications to surrogate courts or courts of probate, for the admission of wills to proof, for the appointment of guardians, the sale of an infant's real estate, or for the appointment of commissioners for lunatics, and the like, are not regarded as writs or other original processes by which suits are begun in any court of law or of equity, within the meaning of the internal-revenue law, and, hence, they are not liable to stamp tax. (T. D.; April 23, 1866.)

**Bond of administrator, taxable.**

The bond required of the administrator of an estate is liable to a stamp tax of $1, the same being an official instrument. (T. D.; April 23, 1866.)

**Income, succession, minor children.**

Where children come into possession of real estate subject to a dower or life estate, they should pay tax on the value of the estate of which they come into possession, and will be further liable upon the decease of life tenant to the succession tax upon the value to which they shall then succeed in possession. See section 137, act of June 30, 1864. (T. D.; April 17, 1866.)

**Assessment of minors' succession tax.**

Where, in the division of an estate, the widow's "thirds" are set off by metes and bounds, the children should of course pay immediately the succession tax on the other two-thirds. Where no division is made, the value of the estate diminished by the present value of the dower would be immediately assessed against the children. (T. D.; April 17, 1866.)

**Income-tax collection.**

To facilitate the prompt collection of the income tax, assessors, having received a sufficient number of returns of the correctness of which they are satisfied, should transmit to the Collector the assessments made thereon. But no questionable return nor any assessment made in the absence of a return should be reported until after appeals have been heard. The assessments thus transmitted in advance of the regular list should be entered on the list and receipted for on that list. Appeals should be advertised and the law complied with in all respects. Distraint can not be made for either license or income taxes, until the complete annual list has been returned. (T. D.; May 4, 1866.)

**Conveyances without consideration.**

It is held that no stamp is required on a conveyance of property without a valuable or adequate consideration. Such a conveyance, however, can not be allowed to affect the liability of the grantor to the same income tax as he would have been otherwise liable to. In other words, no deduction can be made from income on account of such conveyance. (T. D.; March 7, 1866.)

**Income gains and losses.**

The Commissioner, referring to the regulations of the Bureau of Internal Revenue, advises the assessor at Baltimore that gains derived from and losses incurred by the purchase and sale of stocks are regarded as gains and losses in business, without reference to the time during which the stocks are held. Interest and dividends derived from stocks are regarded as income from fixt investments without reference to the time during which such stocks are held. But when gains derived from the sales of stocks involve interest received or accrued, they may be regarded as derived from business alone. Salaries, except where specially provided for by statute, are regarded as income from business. The value of property used in business, less the amount of insurance, may be deducted, when lost, from the gains and profits of the business. (T. D.; June 7, 1866.)

**Legacy tax on proceeds of real estate.**

Where heirs are entitled under a will to the proceeds of certain real estate after the widow's death, it is held that the tax should be paid by the executor. (T. D.; May 11, 1866.)

**Income from room rent.**

Where a taxpayer pays a gross sum for rooms and board having no home elsewhere, he is entitled to deduct from his returns of income a fair allowance for the rent of such rooms. (T. D.; May 28, 1866.)

**Assessment of wholesale dealers.**

Reconsidering a former ruling as to assessing licenses on the amounts of sales, it has been decided that dealers, in making return of sales for the assessment of license tax, shall exclude sales made thru commission merchants having dealers' licenses. But all sales made thru other parties should be included in the basis on which the license tax is assessed without regard to the taxes paid by brokers, auctioneers, etc., on such sales. Dealers may also estimate their sales for the present license year upon which the tax will be assessed, subject to reassessment, if the sales exceed the estimate. (T. D.; June 4, 1866.)

**Stamp-tax on conveyance and succession.**

Section 132, act of June 30, 1864, provides that a conveyance of real estate "without valuable and adequate consideration" shall be held and taken to confer on the grantee a succession. To prevent liability to a succession tax, the liability must be not only valuable, but adequate, and when the consideration is manifestly inadequate a succession tax should be paid on the value of the entire estate conveyed in addition to any stamp that may be imposed upon the conveyance. (T. D.; June 7, 1866.)

**Successions—Estimating value.**

The succession tax is assessable in general terms on the value of the estate, granted or derived. In section 140, act of June 30, 1864, it is prescribed that in estimating such value no allowance shall be made for any contingent incumbrance, the clear implication being that allowance should be made wherever there exist actual incumbrances, such as mortgages, judgments, and liens in general. (T. D.; May 9, 1866.)

**Savings banks' tax.**

Section 9, act of July 13, 1866, provides that every national banking association, State bank, or banking association, shall pay a tax of 10 per cent on the amount of notes of any person, State bank, or State banking association used for circulation and paid out by them after August 1, 1866. As savings banks are not specially excluded from the operation of this law, it is held to be just and, in fact, necessary, to presume that they are included among the banks that are liable to the tax for which provision is made. No exemption is made in their favor. (T. D.; August 4, 1866.)

**Banks defined by act of 1866.**

It is held, under section 9, act of July 13, 1866, that every incorporated institution, and every firm, person, or company having a place of business where credits are opened by the deposit or the collection of money or currency subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange or promissory notes, etc., shall be regarded as a bank or a banker. (T. D.; August 4, 1866.)

**Income tax paid by officers and soldiers abolished.**

The joint resolution of Congress approved July 28, 1866, abolishes the income tax of 5 per cent imposed by the resolution of July 4, 1864, on officers and soldiers honorably discharged from the service, but does not confer any authority for refunding such tax already paid in pursuance of said resolution of 1864, nor does it relate in any way to the tax required to be deducted and withheld by paymasters and disbursing officers. (T. D.; July 31, 1866.)

**Reassessment—Special tax.**

By the act of July 13, 1866, licenses are abolished and instead a special tax is created. By section 80 of that act it becomes the duty of assessors to reassess any person, firm, or company holding license for any excess of tax substituted therefor over the license tax which has been paid from August 1, 1866, ratably, to May 1, 1867. Under the provisions of this act persons having a license as wholesale dealers in liquor, brewers, distillers, and proprietors of gift enterprises are liable to reassessment from August 1, 1866. (T. D.; July 31, 1866.)

**Deductions from income for taxing purposes.**

As to the deduction of losses from income for taxable purposes, it is held that where the income of a former year is lost it can not be deducted from the income of the year of tax, except the same is used in business and lost in the year of tax, in which case it is allowable to deduct such loss from business income only. This is a liberal ruling, inasmuch as the law furnishes no certain grounds for allowing the income of a former year, when lost, to he deducted from the income of the year of tax. (T. D.; July 16, 1866.)

**Definition of fixt investment.**

This office does not recognize capital invested in any stockholding company whatsoever as capital used in business, and there is no deduction for the loss of such capital; nor does the office recognize the profits of any incorporated or stockholding company as business profits of the taxpayer, but as income derived from fixt investments. (T. D.; July 16, 1866.)

**Income deduction for rent.**

It is held that if a party rents his own house and is subjected to paying rent elsewhere on account of it, he must return the rent received, and will be allowed, for purposes of income tax, to deduct the rental paid. If, however, he leave his house unoccupied, or occupied by persons hired to take charge of the same, he can not deduct on account of rent, as he has a home elsewhere. (T. D.; July 5, 1866.)

**Deduction of fines and penalties.**

As to the law applicable to the deduction of fines and penalties in estimating income, it is held that penalties imposed for violations of the excise law are legitimate offsets to the profits of the business in connection with which they are incurred, but they can not be allowed as deductions from income actually realized from other pursuits. (T. D.; July 27, 1866.)

**Annuities—Estimating value.**

The value of an annuity arising from fixt capital or principal should uniformly be estimated by assuming the rate of interest on money at 6 per cent, without reference to the legalized rate of interest in any particular State. (T. D.; July 26, 1886.)

**Increased value—Parts of clocks.**

After a thoro examination of the subject of taxation on increased values, in the light of affidavits and verbal statements setting forth the particulars, it is held that the assembling of the parts of a clock does not increase the value of the taxed parts 5 per cent, and therefore such assembling is exempt from tax under the provisions of section 96, act of June 30, 1864. (T. D.; August 7, 1866.)

**Exemption from tax on increased value.**

It is held that goods manufactured and sold under the act of June 30, 1864, are exempt from tax by section 96 whenever the actual cash value of the goods manufactured, as determined by the price received for them, is not 5 per cent more than the actual cash value of the materials contained in the goods, as determined by sales of precisely similar materials in the same market at the time of delivery of the goods. (T. D.; September 19, 1866.)

**Values increased—Section 96.**

Whether a contract of sale is to be executed a day or a year hence, the rule for ascertaining values is the same. The term for completion of the sale is the important point, that being in all cases the time of delivery. The object of the law is to determine the increase of value caused by the process of manufacture and not the increase caused by fluctuations in a market constantly subject to panic and speculation. The time when the sale takes place is obviously the time at which the increased value is to be ascertained. (T. D.; March 13, 1865.)

**Auction sales—Tax.**

Prior to the act of July 13, 1866, it was held that sales made by auctioneers for judicial or for executive officers, or for executors and administrators, were liable to tax in the same manner as sales made for other persons. The law having been amended, it is now held that the sales of auctioneers made for or on account of the officers and persons specified in the previous act are not liable to tax since August 1, 1866. (T. D.; August 9, 1866.)

**Stamping renewals of promissory notes.**

In regard to the extension of the time for payment of promissory notes, it is held that the indorsement of a partial payment on the back of a note is equivalent to a new memorandum, not subject to stamp tax, and the fact that, by implication of law, it operates as an extension of the time of payment does not affect the case. The agreement to waive protest and notice of protest, signed by the party making it, is subject to stamp tax as a contract or agreement. (T. D ; July 6, 1866.)

**Assistant assessors and elective offices.**

The Secretary of the Treasury has directed that notice be issued that the acceptance of a nomination to an elective office by an assistant assessor of taxes will be taken as evidence that he no longer wishes to retain his position in the revenue service, and assessors are instructed to promptly report the name of any assistant who shall accept or who is known to be seeking a nomination for such office, in order that a successor may be at once appointed. The position of a candidate before the people is deemed inconsistant with the impartial discharge of the duties of an assistant assessor of taxes. (T. D.; August 20, 1866.)

**Manufacturers' exemption.**

It is held that under section 74, act of June 30, 1864, and the same act as amended March 30, 1865, only the sales by manufacturers of their own products in their own factories or place of production are exempt from license tax. It is provided also by said act that neither goods, nor wares, nor merchandise shall be kept for sale at said "place of production" without license. (T. D.; August 14, 1866.)

**Cigars packed and restamped in bulk.**

Whenever a manufacturer desires to sell his cigars in bulk or unpacked, he must have them counted by an assistant assessor or inspector and receive a certificate of the number. He may then deliver them to the purchaser in presence of the assistant assessor or inspector without payment of the tax. The purchaser is required to pack such cigars in boxes or paper packages, have them inspected and marked and stamped according to law, and make a return of the same as inspected to the assistant assessor of the district where they were manufactured, and unless they are removed to a bonded warehouse he must pay the taxes on such cigars, within fifteen days after purchasing them, to the collector of the district wherein they were manufactured, and before removal from his store or building or from his possession. (T. D.; August 28, 1866.)

**Regulations governing tax of fermented liquors.**

In pursuance of section 48, act of July 13, 1866, imposing on all beer, lager beer, ale, porter, and other similar fermented liquors brewed, manufactured, and sold or

**Regulations governing tax of fermented liquors—Continued.**

removed for consumption within the United States, a tax of $1 for every barrel not more than 31 gallons and at a like rate for any other quantity or for any fractional part of a barrel, the Commissioner issues to collectors a set of regulations governing the imposition and collection of the tax. The tax is to be paid by the owner, agent, or superintendent of the brewery or premises in which the liquors are made. (T. D.; August 31, 1866.)

**Reassessment of incomplete returns and fraud cases.**

Construing section 20, act of July 13, 1866, as to the examination, investigation, and reassessment of incomplete returns and cases of fraud, the Commissioner holds that there can be no reasonable doubt that Congress intended the section to be applied to two classes of cases, viz, first, past omissions or deficiencies, and, second, future omissions or deficiencies, and that all cases, whether past or future, should be included in the two classes. After taking it for granted that certain lists may have been imperfect the statute says that the assessor may, at any time "within fifteen months from the time of the passage of the act," make the necessary correction. The language is not restricted to any particular part of those cases where the lists "may have been" imperfect. (T. D.; August 21, 1866.)

**Commission on sales—Act of 1864.**

Under the act of June 30, 1864, a commission of 3 per cent was allowed the manufacturer when sales were made at other than the place of manufacture; but sales made by traveling agents taking orders for goods which were delivered from the factory would not be regarded as "sales made at a place other than the place of manufacture," and no commission could, therefore, be allowed thereon. Under the present law no commissions are allowed under any circumstances. (T. D.; August 25, 1866.)

**Cancellation of coupons.**

Assistant treasurers, designated depositaries, and officers of national banks are enjoined, in the cancellation of coupons, that care be taken not to punch from the same either the number or the date. Such defacement is held to be needless, inasmuch as there is upon each coupon ample space for cancellation without destroying any essential part, involving, perhaps, the maturity or even the legitimacy of a coupon and often requiring, before payment, the establishment of dates and numbers by affidavit or other proof. (T. D.; September 1, 1866.)

**Shipments of arms, etc., into the Southern States.**

In conformity with proclamations issued by President Johnson April 2, 1866, and August 20, 1866, collectors of customs were instructed that permits were no longer necessary in the shipment of arms, ammunition, or other merchandise into any of the States recently in insurrection; and that all ports of the United States, without exception, are placed on the same footing and governed by the same general laws and regulations of the Treasury Department. (T. D.; August 21, 1866.)

**Distilled spirits—Manufacture, inspection, sale.**

The act of July 13, 1866, section 32, imposes on all distilled spirits upon which no tax has been paid a tax of $2 on every proof gallon. The tax is a lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the interest of the distiller in the land on which the distillery is located from the time the spirits are distilled to the payment of the tax. (T. D.; September 1, 1866.)

**Illegal business in distillery.**

Section 25, act of July 13, 1866, forbids the use of any still, boiler, or other vessel in any dwelling house or in any building or on any premises where any other business except the manufacture of saleratus is carried on. If the steam from any boiler in the dis-

**Illegal business in distillery**—Continued.

tillery is conveyed to other premises to be used for other purposes, the utmost vigilence must be exercised by revenue officers to prevent this privilege from being made a facility for the perpetration of fraud on the revenue. (T. D.; September 1, 1866.)

**Warehouse provision.**

Section 27, act of July 13, 1866, requires every distiller to provide at his own expense a warehouse suitable for the storage of bonded spirits or a secure room in a suitable building to be used as such warehouse. Such room may be in the distillery building or in a building containing other rooms used as warehouses by other distillers, provided such rooms have no interior communication with each other. But no spirits can be stored in such room, except spirits manufactured by the distiller who provides the room itself. (T. D.; September 1, 1866.)

**Law as to seizure of spirits.**

Under section 45, act of July 13, 1886, which forbids under penalty of fine and imprisonment the removal of any distilled spirits from the place where they are distilled to any other place than into a bonded warehouse, all spirits so removed and all spirits found elsewhere than in a bonded warehouse, not having been removed therefrom according to law and the tax imposed by law on the same not having been paid, are liable to forfeiture. Or immediately on discovery they may be seized, and after the assessment of tax thereon may be sold for the tax and expenses of seizure and sale. In either procedure the burden of proof is on the claimant to show that he has complied with the law. (T. D.; September 1, 1866.)

**Savings institutions without capital.**

The benefit of the exemptions in the proviso to section 110, act of June 30, 1864, as amended July 13, 1866, is confined to provident institutions, savings banks, savings funds, or savings institutions having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits without profit to the company. (T. D.; September 17, 1866.)

**Restriction of proviso in section 120, act of 1864.**

The proviso in section 120, act of June 30, 1864, as amended July 13, 1866, in its relation to the interest paid to depositors in savings banks or savings institutions is held to apply to such savings institutions only as are described in the proviso to section 110, act of June 30, 1864, as amended July 13, 1866. All others are liable to the 5 per cent tax imposed by section 120, act of June 30, 1864, on the dividends or interest declared or paid by them to depositors and stockholders. (T. D.; September 17, 1866.)

**Reassessment of wholesale dealers.**

The reassessment of wholesale liquor dealers under the act of July 13, 1866, should be made in cases where the license tax already paid is less than $100. Any amount due within the year beyond that sum will be assessed monthly. Where the sales exceed $50,000, the total amount of tax for the year should never be more than $50 in excess of one-tenth per cent of the sales. (T. D.; September 13, 1866.)

**Right of sheriff to seize oil in bonded warehouse.**

In answer to the question whether a sheriff has authority to seize and hold bonded oil in bonded warehouses, it is held that the claim of the Government is prior and paramount to that of creditors; that a sheriff can not seize the oil and remove it from the custody of the officer having it in charge. The Government's claim relates only to taxes unpaid, upon payment of which or upon the execution of a transportation or an exportation bond the officer in charge will notify the owner or the occupant of the warehouse that he no longer claims any control over the property. Whether the sheriff may then seize the oil and hold it in the warehouse is a question of State law alone. (T. D.; September 20, 1866.)

**Exemption of manufacturers.**

It has been repeatedly held, as now, that under section 93, act of June 30, 1864, a manufacturer who personally engages in his business is not debarred from the exemption to which he would be otherwise liable from the fact that he employs apprentices or journeymen to assist him. (T. D.; September 10, 1866.)

**Carriers' tax on gross receipts.**

In regard to the tax on gross receipts of persons doing an express business, it is held that section 104, act of June 30, 1864, which imposes such tax, was neither repealed nor amended by the act of July 13, 1866. Assessors should therefore continue to assess the taxes as heretofore. The tax of 2½ per cent imposed by section 103, act of 1864, upon all gross receipts for transportation of passengers, freight, etc., is no longer assessable upon receipts for the transportation of property. (T. D.; September 20, 1866.)

**Tax on smoking tobacco.**

The law provides that on smoking tobacco of all kinds, neither sweetened, stemmed, nor butted, etc., there shall be paid a tax of 15 cents a pound. The terms "butted" and "stemmed" refer as well to the final product as to the process. Smoking tobacco manufactured or cut in such a manner as to include the entire stem and without being sweetened is to be taxed 15 cents per pound; but if any portion of the stem is removed the tobacco is liable to 40 cents tax. If the leaf is stemmed or butted or if any portion of the stem is removed before manufacture or during the process of manufacture, or subsequent thereto, by cutting off the butt end or stripping out the stem, or any portion thereof, or by bolting, sifting, or screening or other process, the tobacco becomes liable to a tax of 40 cents a pound. (T. D.; September 27, 1866.)

**Deductions abolished by act of June 13, 1866.**

Regarding deductions allowed manufacturers, it is held that section 86, act of June 30, 1864, by which manufacturers were allowed to deduct from the gross sales of their products freight, commission, and other expenses of sale bona fide paid, is stricken out by the amendatory act of July 13, 1866. Under the present law, therefore, no deductions are allowed. However, a manufacturer who sells his goods on time, without interest, in making his periodical returns may be allowed to reduce such sales to their cash value at the time they are made. (T. D.; October 2, 1866.)

**Manufacturers' tax on products.**

Manufacturers whose products exceed the rate of $1,000 per annum, but do not exceed the rate of $3,000 per annum, will be required to pay a tax on only the excess above the former rate, altho they employ an apprentice or journeyman to assist in their business, provided they personally engage therein. (T. D.; September 21, 1866.)

**Coffee tax—Mixed or adulterated.**

Section 94, act of June 30, 1864, as amended by the act of July 13, 1866, imposes on coffee, roasted or ground, and upon all articles intended for use as substitutes for or as adulterations of coffee and upon all compounds and mixtures prepared for sale or intended for use and sale as coffee or as substitutes a tax of 1 cent per pound. When coffee is roasted and ground before being sold, the tax thereon is 2 cents a pound. (T. D.; October 5, 1866.)

**Envelops printed not exempt from tax.**

Relating to the mode of taxing printed envelops, printed envelops are not held to be exempt as printed matter, but are liable to a tax on their entire value. If printed after they are made and sold, they become liable to an additional tax on increased value. (T. D.; September 27, 1866.)

**Cigars restamped and reinspected.**

Where satisfactory evidence is presented, showing that cigars have been properly inspected and have paid the tax imposed upon them by law, an assessor may allow the same to be repacked, reinspected, and restamped, the owner or manufacturer paying the cost of fees. (T. D.; October 10, 1866.)

**Deduction on manufacturers' sales.**

Replying to inquiries relative to deductions on the sales of manufacturers, it is again held that the deductions which were allowed under section 86, act of June 30, 1864, have all been stricken out by the amendatory act of July 13, 1886, and returns must now be made and the tax paid either upon the basis of the actual sales made to the purchaser or upon the estimated value of like goods at the time when they became liable to tax. Sales, however, that are made on time and without interest may be reduced to their cash value, and so returned for taxation. (T. D.; October 17, 1866.)

**Powers of attorney—Stamping.**

A power of attorney to sell and convey real estate, contained in a mortgage, is subject to a stamp tax of $1 in addition to the mortgage stamp, the same as if it were made and issued as a separate instrument. If an instrument is not properly stamped at the time it is issued, it should be presented to the collector to have the appropriate stamps affixt. After being stamped by him it will be valid and legal, except as against rights acquired in good faith before it is so stamped and recorded, if a record is necessary. (T. D.; September 24, 1866.)

**Locks and seals for distilleries.**

Section 34, act of July 13, 1866, provides that all locks and seals required by law shall be furnished by the Secretary of the Treasury at the expense of the owner of the distillery or warehouse in which they are used. Accordingly, a padlock with Thompson's patent seal attached is to be used wherever locks are required on the doors of those rooms in which cisterns required by law are placed and on doors of bonded warehouses to which spirits are removed when taken from the cisterns. The inspector, assistant inspector, or storekeeper must retain custody of the locks in use, never suffering them to go out of his possession, except to the collector or assessor of his district or to his successor in office. (T. D.; October 6, 1866.)

**Transfer of special tax receipts.**

In pursuance of the act of July 13, 1866, special tax receipts can not be transferred from one person to another as licenses were, not even when one person sells out to another both the property and the good will of the establishment. It is only in case of death that the special tax receipt is transferable from one person to another, and then to none but the legal representatives of the deceased. (T. D.; October 30, 1866.)

**Bonding cigars.**

In relation to the bonding of cigars it is held to be a privilege which the law gives to every manufacturer, who can exercise it or not as he sees fit. Before cigars are bonded their value is to be ascertained by an appraisement made by the assessor of the district. Before cigars are withdrawn from bond the law requires that the tax be paid, and after payment the owner may sell them where and when and at such places as he pleases. The law does not allow any constructive bonding. (T. D.; November 5, 1866.)

**Bankers' license taxes.**

The license taxes of bankers were, under the act of June 30, 1864, based upon the amount of capital used. The solicitor of the Treasury is of the opinion that the surplus earnings of an incorporated bank are no part of its capital within the meaning and intent of that part of said act which relates to license taxes, and that the license tax of such bank should not be assessed upon a sum greater than its chartered capital. (T. D.; November 12, 1866.)

**Payment of corporation taxes.**

Attention is called to the fact that under the amendatory act of July 13, 1866, the taxes due from all corporations mentioned in sections 110, 120, and 122, act of June 30, 1864, are made payable to the collector of the proper district, the same as other taxes. Notwithstanding this, many banks—especially national banks when returning dividend tax—railroads and other corporations, continue to make returns direct to this office, depositing the amount of tax to the credit of the United States. This practise is contrary to law and leads to both confusion and trouble. (T. D.; October, 1866.)

**Insurance agents' special tax.**

It is held, respecting special tax on insurance agents, that the words "if the annual receipts of any person as such agent shall not exceed one hundred dollars," in the first proviso to article 28, section 79, act of June 30, 1864, as amended by the act of July 13, 1866, refer to the individual income received by him, not the company or companies for which he is acting as agent; in other words, the compensation paid him for his services as insurance agent. (T. D.; November 5, 1866.)

**Liabilities of manufacturers.**

Under section 94, act of June 30, 1864, as amended by the act of July 13, 1866, it is held that any person, firm, company, or corporation, owning or hiring a factory or controlling the business either by personal oversight or by an agent, overseer, or foreman, and making for sale the articles enumerated in said section, is a manufacturer and liable to make returns of the goods manufactured and sold or used and to pay taxes thereon in the district where the factory, workshop, or place of manufacture is located. (T. D.; November 13, 1866.)

**Tax of parties for whom goods are manufactured.**

Where persons or firms do not manufacture the articles enumerated in section 94, act of July 13, 1866, for their own sale, but for other parties who furnish the material in whole or in part, and to whom the articles or goods are returned when so made or finished upon the payment of a stipulated price for manufacturing, making, or furnishing, it is held that such persons or firms are not held by the law liable for the payment of the tax on such articles or goods. In such cases, parties receiving the materials to be manufactured for others will make returns to the assessors of their several districts of the kind and quality of goods made and the names and places of business of the parties furnishing the materials for manufacture. (T. D.; November 13, 1866.)

**Stamps on mortgages.**

Where extraordinary powers, special covenants, etc., are inserted in deeds of various kinds, but such as are not contained in their common forms, said covenants and special powers are held liable to taxation the same as if issued separately from the deeds. (T. D.; November 15, 1866.)

**Reinspection—Spirits removed from original packages.**

In reply to the inquiry as to whether liquors, changed from the original packages for the purpose of being mixed, are to be reinspected and branded, it is held that under section 43, act of July 13, 1866, all spirits removed from the original packages for the purposes of reinspection, redistillation, or change of proof are required to be again inspected, and moreover, unless also marked with the word "rectified," they are subject to seizure. (T. D.; November 20, 1866.)

**Tax exception under act of 1866.**

Section 93, act of July 13, 1866, provides for a conditional exception of manufacturers and producers of articles made liable to taxation under section 94 from the taxes therein imposed. The object of the exception is to relieve small manufacturers whose annual product does not exceed $3,000 from taxation on $1,000 worth of their

**Tax exception under act of 1866**—Continued.

productions when the same is the result of their own personal labor or the labor of their families. The returns of manufacturers being made monthly, it is necessary that a proportionate part of the $1,000 shall be deducted from each monthly return, and the tax assessed on the balance. (T. D.; November 16, 1866.)

**Succession tax—Clear value.**

Under operation of the revenue law the succession tax is assessable on the clear value of an estate of which the successor comes into possession. If legitimate expenses of partition practically lessen the value of the estate, the amount should be deducted from the assessable value before levying the tax. (T. D.; July 31, 1866.)

**Stamping promissory notes.**

New promissory notes substituted for others that had been destroyed after having been properly stamped, and which are evidence of the same debt and not renewals of the notes payable at a different date, do not require to be stamped. A memorandum of the circumstance should be made on each note. If notes are taken up and new notes given in their place, payable at a different date, or otherwise changed, the new notes are liable to stamp tax. (T. D.; November 28, 1866.)

**Special tax on butchers.**

Construing section 79, act of June 30, 1864, as amended by act of July 13, 1866, it is held that a person conveying slaughtered calves and sheep to market in wagons, to sell by the carcass or quarter to butchers keeping a stall or stand, would be liable as a peddler unless he were a farmer selling meat from animals raised on his own farm, in which case he would be exempt from tax. (T. D.; December 5, 1866.)

**Tax on foundry facings.**

Under the existing law charcoal and mineral coal are exempt from excise tax, but foundry facings are regarded as a manufacture from charcoal, and as such taxable at the rate of 5 per cent ad valorem, under the general provisions of section 94, act of June 30, 1864. (T. D.; December 3, 1866.)

**Manufacturers' special tax.**

Replying to the inquiry as to whether the owners of steam, water, grain, and saw mills are liable to special tax as manufacturers, it is held that they are liable, if their manufactures exceed annually the sum of $1,000. The exemption of breadstuffs, lumber, etc., from specific and ad valorem taxation does not affect that other and independent provision of the law which defines "manufacturers" and imposes the special tax of $10 on every person and firm coming within that definition. (T. D.; December 18, 1866.)

**Tax on "constituent parts" of clothing.**

The provisions of the act of July 13, 1866, relative to the payment of tax by the parties who furnish the material in the manufacture of clothing, or of other articles of dress which are taxable at the rate of 2 per cent, are not held as applicable to cases where materials are furnished for the manufacture of "constituent parts" of clothing. (T. D.; January 4, 1867.)

**Exemption of woolen yarn.**

Construing section 91, act of June 30, 1864, as to the exemption from tax of manufacturers of woolen yarn, when such yarn is made and sold to farmers and other customers for knitting into stockings and weaving into flannel, it is held that the exemption includes all yarns for whatever purpose the same may be used, the term "manufacturing purposes" contained in the law being broad enough to cover all uses to which yarn is applied. (T. D.; December 31, 1866.)

**Transportation of spirits in bond.**

Following the intention of the act of July 13, 1866, collectors are advised to notify all persons who may execute bonds for the transportation of spirits to bonded warehouses that such spirits will be seized if found elsewhere than in transit to the warehouse for which a permit is issued, and they are directed to seize all spirits that may be found in their respective districts branded for transportation and which are evidently not in regular course of transit to the proper warehouse, unless it appear that the transportation was begun prior to January 20, 1867. (T. D.; January 16, 1867.)

**Spirits under proof liable to full tax.**

The language of section 32, act of July 13, 1866, plainly requires that all spirits below first proof shall pay a tax of $2 per gallon the same as first proof, and for all above first proof the tax is subject to increase in proportion to the strength of the spirits. (T. D.; December 6, 1866.)

**Transportation bonds.**

Collectors are instructed to notify all persons who may execute transportation bonds that in no event will the bonds be canceled except on proof of the receipt of the spirits in the proper warehouse, or proof of some special circumstances which have rendered impossible a literal compliance with the condition of the bond. (T. D.; January 16, 1867.)

**Tonnage tax.**

In assessing the special upon boats, barges, and flats under the last proviso to section 103, act of June 30, 1864, the capacity of the boat is to be determined by the customs admeasurement. (T. D.; January 23, 1867.)

**Seizures of property in custody of transportation companies.**

In order to avoid complaint on part of transportation companies, collectors and deputy collectors are instructed, when they seize property in the custody of an agent of any transportation company, to deliver to such agent a written statement, giving, for purposes of identification, an inventory of the property seized, mentioning the brands, numbers, and marks thereon, including, when it is known, the name and residence of the ostensible owners. The statement should specify in general terms that the property is seized for violation of the internal-revenue laws. (T. D.; February 5, 1867.)

**Section 68—Forfeiture of liquors.**

Section 68, act of June 30, 1864, as amended by the act of March 3, 1865, limiting the time for commencing proceedings to enforce a forfeiture of liquors, the vessels containing it, and the vessels used in making it, to thirty days, was repealed by section 9, act of July 13, 1866. (T. D.; February 5, 1867.)

**Seizures specially authorised.**

Section 48, the act of June 30, 1864, as amended by the act of July 13, 1866, provides that goods, wares, merchandise, etc., may, under certain circumstances, be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue. This does not make it the duty of the Commissioner to designate any one collector to make general seizures, but confers upon him special authority to designate any collector or deputy collector not of "the proper district, whenever, in his opinion, the exercise of such authority becomes necessary or expedient." (T. D.; February 5, 1867.)

**Spirits in bond.**

The time during which spirits may remain in bond without payment of tax is not limited, but the tax must be paid before they are removed from the warehouse unless removed in pursuance of law. (T. D.; February 5, 1867.)

**Assessors' authority.**

An assessor has no authority to remove an inspector of distilleries and appoint another person temporarily in his place. Where an inspector is derelict in duty or is interested in a distillery, the case should be reported immediately to the Commissioner of Internal Revenue. (T. D.; February 5, 1867.)

**Sale of brewers' stamps.**

Collectors have no authority to sell stamps denoting the amount of tax on fermented liquors to anyone outside their respective districts, nor to any within their districts, except brewers. (T. D.; February 5, 1867.)

**Beer stamps—Countersinking and affixing.**

The object with which beer stamps are countersunk is to protect the brewer, by preventing the stamp from becoming detached. If brewers prefer to affix their stamps without countersinking there exists no objection thereto under the law. (T. D.; February 5, 1867.)

**Fruit distillers—Liabilities.**

The distillers of other fruits, such as cherries, blackberries, etc., are not entitled under the law to the benefit of the low rates of special tax imposed upon distillers of apples, peaches, and grapes, nor has the Commissioner of Internal Revenue any discretionary power to exempt the distillers of such other fruits from any of the provisions of the law relating to the manufacture of spirits. (T. D.; February 5, 1867.)

**Destruction of merchandise—Cancellation of bond.**

Where it is clearly proved that merchandise shipped in bond has been destroyed by either fire or an unavoidable accident the tax will be remitted and the bond canceled. (T. D.; February 5, 1867.)

**General inspection.**

All spirits withdrawn from a bonded warehouse should be inspected by a general inspector. (T. D.; February 5, 1867.)

**Inspectors' per diem compensation.**

So long as an inspector has charge of spirits in a bonded warehouse he is entitled to his regular per diem compensation, altho the distillery itself may not be in operation, but when the warehouse or the distiller's spirits therein are under seizure, they are not in the custody of the inspector, and he has no claim for a per diem compensation. (T. D.; February 5, 1867.)

**Tax-paid spirits in bonded warehouse.**

Spirits upon which the tax has been paid should not be allowed to remain in a bonded warehouse, but should be removed at once upon payment of the tax. (T. D.; February 5, 1867.)

**Brandy from imported wines.**

Brandy produced by distilling imported wines is liable to a tax of $2 per gallon without any deduction of the import duty upon the wines. (T. D.; February 5, 1867.)

**Exemption of American wines.**

Wines put up as American wines, with no pretense of being imported wines or wines of foreign growth or manufacture, are not subject to tax under section 36, act of July 13, 1866, but, if there be any such pretense, they are liable under that section, even tho the bottle bear the name of a firm in the United States. (T. D.; February 5, 1867.)

**Reinspection of spirits and liquors.**

It is only when spirits are removed from an inspected package for the purposes of rectification, redistillation, or change of proof that a reinspection is necessary.

**Reinspection of spirits and liquors**—Continued.

When removed for other purposes, as when a dealer puts them up in other packages for sale, a second inspection is unnecessary; but if such packages bear no inspection marks or brands, it will be presumed that no tax has been paid on the spirits therein contained, and the person in whose possession they are found should be prepared to rebut the presumption. (T. D.; February 5, 1867.)

**Liabilities of druggists and chemists.**

No special tax is imposed for any still or other apparatus used by druggists or chemists for the recovery for phamaceutical and chemical or scientific purposes of alcohol which has been used in those processes, but if used for its production the usual taxes should be assessed and collected. (T. D.; February 5, 1867.)

**Marking spirits in bond.**

Spirits manufactured prior to September 1, 1866, and which are in bonded warehouses, need not be proved, gaged, and branded. Provision is made in the law and in the regulations for marking such liquors when withdrawn from the warehouses, and those markings are sufficient. (T. D.; February 5, 1867.)

**Distillery inspectors.**

A stiller or beer runner can not at the same time act as the inspector of a distillery. An inspector can engage in no other business while employed as inspector, whether for the distillery or for any other party. (T. D.; February 5, 1867.)

**General inspector's duty.**

The duty of inspecting bonded spirits which have been removed for the purpose of being rectified, redistilled, canned, or put into other packages and then returned, and of inspecting spirits manufactured from apples, peaches, or grapes, belongs to the general inspector. (T. D.; February 5, 1867.)

**Bonded spirits removed.**

Bonded spirits removed for redistillation, rectification, or change of package under the provisions of section 40, act of July 13, 1866, must be returned to the same warehouse, and a change in the ownership does not remove the necessity for such return. (T. D.; February 5, 1867.)

**Inspection of alcohol.**

When whisky is removed from an inspected package and made into alcohol, it should be again inspected after its character has been thus changed, and the packages containing it should be properly branded. (T. D.; February 5, 1867.)

**Tax on fresh beer.**

If a brewer purchase his product from another brewer before it has fermented and mixes it with flat beer for the purpose of creating a new fermentation, the purchaser who thus manufactures a salable article of beer must pay a tax on the full amount sold by him or removed for consumption or sale; but such product sold before fermentation need not be included in the monthly account of beer sold by the person who sells it. (T. D.; February 5, 1867.)

**Stamp tax on leases, etc.—Annual value.**

The stamp tax on a lease, agreement, memorandum, or contract for hire, use or rent of any land, tenement, or portion thereof, is based upon the annual rent or retail value of the property leased, and the tax is the same whether the lease be for one year, for a term of years, or for only the fractional part of a year. (T. D.; February 5, 1867.)

**Spirits medicated.**

The product of stills, tho medicated by distilling drugs, roots, etc., is nevertheless liable to a tax of $2 per gallon. (T. D.; February 5, 1867.)

**Stamp tax on writ of appeal.**

A 50-cent stamp is required upon a writ or other process on appeal from a justice's court, or other court of inferior jurisdiction, to a court of record, and this stamp covers all the papers necessary to taking the appeal and to the entry of the action in the court of appellate jurisdiction. (T. D.; February 5, 1867.)

**Stamp tax on bills.**

A bill, whether single or obligatory—that is, an instrument in the form of a promissory note, under seal—is subject to stamp tax as written or printed evidence of an amount of money to be paid on demand, or at a time designated, at the rate of 5 cents for each $100 or fractional part thereof. (T. D.; February 5, 1867.)

**Mortgage assignment—Stamp tax.**

The assignment or transfer of a mortgage or of a policy of insurance is subject to stamp tax, whether there be a sale or not—such, for instance, as a transfer from the legal owner to the equitable one. (T. D.; February 5, 1867.)

**Exemption of jurat to affidavit.**

The jurat to an affidavit as to the correctness of a return of property for taxation when made before an assessor of State, county, town, or other municipal taxes is exempt from stamp tax if the administration of the oath is part of the assessor's official duties. (T. D.; February 5, 1867.)

**Exemption of registry of judgment.**

No stamp is necessary upon the registry of a judgment, even tho the registry is such in its legal effect as to create a lien which operates as a mortgage upon the property of the judgment debtor. (T. D.; February 5, 1867.)

**Stamp tax on protests, etc.**

A stamp tax of 25 cents is imposed upon the protest of every note, bill of exchange, check, or draft, and upon every marine protest. If several notes, bills of exchange, drafts, etc., are protested at the same time and all attached to one and the same certificate, stamps should be affixt to the amount of 25 cents for each note, bill, draft, etc., thus protested. (T. D.; February 5, 1867.)

**Conveyances by town corporations.**

A conveyance of lands sold for unpaid taxes issued since August 1, 1866, by the officers of any county, town, or other municipal corporation, in the discharge of strictly official duties, is exempt from stamp tax. (T. D.; February 5, 1867.)

**Tax on preparation of papers.**

A person who makes it his business or any part of his business to prepare papers to be used by another in the prosecution of claims before any of the Executive Departments of the Federal Government is liable as a conveyancer, unless he has already paid a special license or tax as a lawyer or as a claim agent. (T. D.; February 5, 1867.)

**Hotel tax—Rental value.**

The special tax of a hotel keeper is based upon the annual rent or rental value of that portion of the premises which is actually used for hotel purposes. Barbers' saloons, billiard rooms, and liquor, cigar, and newspaper stands are the usual concomitants of a hotel, and in assessing the special tax of a hotel keeper no deduction should be made from the rent or rental value of the entire premises on account of any portion leased to the keepers of such stands, rooms, or saloons. (T. D.; February 5, 1867.)

**Capacity of still—Definition.**

The capacity of a still, as the term is used in section 24, act of July 13, 1866 (section 122 of Compilation), is not the quantity which the distiller may deem practicable to operate on his still or boiler, but is the full measure of the vessel itself. (T. D.; February 5, 1867.)

**Tax relating to "Maine liquor law."**

No special tax as liquor dealers is required of a county, city, or town agent appointed under what is popularly known as the "Maine liquor law" for sales made in accordance with the provisions of that law. (T. D.; February 5, 1867.)

**Assignment tax.**

An assignment of real estate or of personal property, or of both, for the benefit of creditors should be stamped as an agreement or as a contract. (T. D.; February 5, 1867.)

**Tax on foreign insurance.**

The Liverpool and London and Globe Insurance Company is a foreign company, and its agents in the United States are liable to a special tax of $50. (T. D.; February 5, 1867.)

**Assessment of 1867—New law.**

The act of Congress approved March 2, 1867, amending existing laws relating to internal revenue requires the assessment of annual taxes, heretofore made in the month of May, to be made on the corresponding days in the month of March. The principal changes in the law respecting the income tax are those increasing the exemption from $600 to $1,000 and the repeal of the tax of 10 per cent on sums above $5,000, so that the law now imposes a uniform tax of 5 per cent on incomes in excess of $1,000. Profits on sales of real estate purchased since December 31, 1863, are made taxable as income. (T. D.; March 5, 1867.)

**Manifests—Clearance of vessels in ballast.**

A stamp tax is imposed on every manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer for a foreign port. In each case the amount of this tax depends on the registered tonnage of the vessel. If a vessel clears in ballast and has no cargo, no stamp is necessary, but if she has any—however small the amount—a stamp must be used. (T. D.; March 5, 1867.)

**Instruments prior to October, 1862.**

On instruments executed prior to October 1, 1862, no stamp is necessary to make it admissible in evidence or to entitle to record. (T. D.; March 5, 1867.)

**Pay-roll receipts.**

When several persons, such as the employees of a manufacturing company, sign a pay roll, a 2-cent stamp should be affixt for the signature of each and every one who receipts for a sum exceeding $20, and one or more stamps should be affixt thereto representing the whole amount of the stamp tax required for such signatures. (T. D.; March 5, 1867.)

**Dividends declared in coin.**

When a bank declares a dividend in coined money, it should be reduced to its value in legal-tender currency at the time when and the place where the dividend is declared payable, and the tax should be assessed on the currency value so ascertained. (T. D.; March 5, 1867.)

**Bank gains and deduction of losses.**

In determining the amount of the taxable gains of a bank only such losses as have been ascertained and settled during the period covered by the return should be deducted. The business of the bank for each six months should stand by itself. A loss that is first ascertained in July should not be deducted from the earnings of the six months next preceding the 1st of July. (T. D.; March 5, 1867.)

**Bank capital invested in real estate.**

The particular manner in which the capital of a bank is invested does not affect the taxation of the bank itself. Banking capital invested in real estate or otherwise should be put in the monthly returns of capital and a tax should be paid thereon. (T. D.; March 5, 1867.)

**National banks—Determining net profits.**

In determining the net profits of a national bank, under sections 120 and 121, the amount of semiannual tax on the capital, circulation, and deposits paid by the bank during the period covered by the returns of such profits may be deducted the same as other expenses, but no deduction should be made on account of the tax of 5 per cent withheld from dividends or paid upon surplus funds. (T. D.; March 5, 1867.)

**Banks passing State bank notes to brokers.**

A national bank can not pass the notes of a State bank into the hands of a broker without thereby becoming liable to the tax of 10 per cent imposed by section 6, act of March 3, 1866. The fact that the broker forwards the notes for redemption does not affect the liability of the bank. The act of passing the notes into the hands of the broker is equivalent to paying them out. (T. D.; March 5, 1867.)

**Banks—Chartered capital, average deposits.**

The monthly tax of one twenty-fourth of 1 per cent required by the revenue law should be returned and paid on the chartered capital of a bank and also on the average amount of deposits held during the month. To ascertain the average amount of deposits the amount of daily balances during the month should be divided by the number of business days in the month. (T. D.; March 5, 1867.)

**Bonds of Government—Premiums not deductible.**

The amount paid by national banks as premium on United States bonds purchased by them can not be deducted, as a loss, from the gross earnings of the bank. It is a part of the investment and should be so treated in ascertaining the sum liable to tax. (T. D.; March 5, 1867.)

**Oils—Lubricating, illuminating, mineral.**

Illuminating, lubricating, and other mineral oils marking between 36° and 59°, inclusive, Baume's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, are taxable at the rate of 20 cents per gallon, without regard to the specific gravity of the petroleum from which they are produced. (T. D.; February 23, 1867.)

**Boats, barges, or flats—Special tax.**

By the last proviso to section 103, act of June 30, 1864, an annual special tax, in lieu of enrollment fees or tonnage tax, is imposed upon all boats, barges, or flats of a capacity exceeding 25 tons not used for carrying passengers nor propelled by steam or sails, and which are floated or towed by tugboats or horses and used exclusively for carrying coal, oil, minerals, or agricultural products to market. (T. D.; February 23, 1867.)

**Transportation tax under section 103—Act of 1864.**

Boats, barges, and flats used exclusively in transporting between the shore and a vessel, or from one vessel to another, the articles named in section 103, act of June 30, 1864, are liable to a special tax, in accordance with the terms of the proviso to said section. This tax, however, is in lieu of enrollment for fees or tonnage tax, and should not be assessed upon boats which have already paid taxes under the customs laws. (T. D.; February 23, 1867.)

**Manufacturers' sales outside of factories.**

By section 74, act of June 30, 1864, as amended, it is provided that no special tax shall be required for the sale by either manufacturers or producers of their own goods, wares, or merchandise, or at their principal office or places of business, provided no goods, wares, or merchandise, except as samples, are kept at such places of business. This authorizes a manufacturer or producer to sell goods, wares, and merchandise of his own manufacture or production, at any time, at the places and

**Manufacturers' sales outside of factories**—Continued.

in the manner indicated, without paying a special tax as dealer, altho he has discontinued the manufacture or production and the time covered by his license has expired. (T. D.; February 23, 1867.)

**Distilled spirits—Returns and payment.**

That part of the act of June 30, 1864, which allowed distillers who distil or manufacture less than 150 barrels per year to make returns and pay taxes on the 1st day of each and every month, instead of the 1st, 11th, and 21st, was repealed by the act of July 13, 1866. By the last-named act all distillers, except distillers of apples peaches, and grapes, are required to make trimonthly returns. (T. D.; February 23, 1867.)

**Liability as a rectifier.**

A person becomes liable not as a distiller, but as a rectifier, by reason of passing whisky upon which tax has been paid thru the copper still for the sole purpose of improving it. (T. D.; February 23, 1867.)

**Distillers' warehouses—Assistant inspectors.**

A distiller can establish as many warehouses, Class A, for the storage of his products as he may elect; but if the number is so great as to withdraw the attention of the inspector from a strict supervision of the distillery, one or more assistants should be appointed in accordance with the provisions of section 29, act of July 13, 1866. (T. D.; February 23, 1867.)

**Rectifiers not liable.**

Rectifiers of distilled spirits are not required to pay a 5 per cent ad valorem tax upon compound or imitation liquors manufactured by them for sale. (T. D.; February 23, 1867.)

**Wines and imitation wines.**

A tax of 50 cents per gallon is imposed upon all liquors known or denominated as wine, not made from grapes, currants, rhubarb, or berries, produced by rectification, or mixt with other spirits, or into which any matter whatever may be infused to be sold as wine or by any other name, and not otherwise provided for in the internal-revenue laws. Such spirits need not be inspected and gaged by an inspector, but all persons engaged in the manufacture of them should make their returns and pay their taxes at the same time and in the same manner as the manufacturers of other articles. (T. D.; February 23, 1867.)

**Stamp tax in the rebellious States.**

The first act imposing a stamp tax upon certain specified instruments took effect October 1, 1862. The impression that no stamps are required upon any instruments issued in the States lately in insurrection against the Government prior to the surrender of the rebel forces or prior to the establishment of collection districts in those States is erroneous. Instruments issued in those States since October 1, 1862, are subject to the same taxes as similar ones issued at the same time in the other States. (T. D.; February 23, 1867.)

**Jurats administered by revenue officers.**

The words "or used" were stricken out of section 154, act of June 30, 1864, by the amendatory act of July 13, 1866. When a notary public or justice of the peace administers the oath to an assistant assessor upon his monthly account for services, a 5-cent stamp should be affixt to the jurat. No stamp will be required when the oath is administered and the jurat issued by an assessor, assistant assessor, collector, deputy collector, revenue agent, or inspector. (T. D.; February 23, 1867.)

**Assignment of lease and rents.**

The assignment of a lease within the meaning and intent of Schedule B is an assignment of the leasehold or of some part thereof by the lessee or by some person claiming by, from, or under him such an assignment as subrogates the assignee to the rights or some portion of the rights of the lessee or of the person standing in his place. A transfer of the lessor of his part of a lease, neither giving nor purporting to give a claim to the leasehold or to any part thereof, but simply a right to the rents, etc., is subject to stamp tax, either as a contract or an agreement only. (T. D.; February 23, 1867.)

**Penalties—Affixing and paying for stamps.**

The law does not designate which of the parties to an instrument shall furnish the necessary stamp, nor does the Commissioner of Internal Revenue assume to determine that it shall be supplied by one party rather than by another; but if an instrument subject to stamp tax is issued without having the necessary stamps affixt, it can not be recorded or admitted or used as evidence in any court until a legal stamp denoting the amount of tax shall have been affixt as prescribed by law, and the person who thus issues it is liable to a penalty if he omits the stamp or stamps with an intent to evade the law of internal revenue. (T. D.; February 23, 1867.)

**Tax on bills of sale.**

The stamp tax on a bill of sale by which any ship or vessel or any part thereof is conveyed to or vested in any other person or persons is at the same rate as that imposed upon conveyances of realty sold; a bill of sale of any other personal property should be stamped as a contract or an agreement. (T. D.; February 23, 1867.)

**Subscription lists, contracts, promissory notes.**

When a subscription is made for a purpose in which there is a community of interest among the subscribers, the list should be stamped as a contract or agreement at the rate of 5 cents for each sheet or piece of paper on which it is written. When each of the subscribers contracts to pay a certain sum of money on demand or at a time designated, the separate contract of each should be stamped at the same rate as a promissory note. (T. D.; February 23, 1867.)

**Bonds—Administrators, executors, guardians.**

The official bonds of administrators, executors, and guardians are subject to a stamp tax of $1 each, the same being held as bonds for the due execution or performance of the duties of an office. (T. D.; February 23, 1867.)

**Government documents not taxable.**

No stamp is required on instruments to which the Government of the United States is a party, provided it is signed and executed by a person representing the Government. When not signed by such a person the instrument requires the affixing of a stamp. (T. D.; February 23, 1867.)

**Receipt of an attorney.**

No stamp is required upon a receipt given by an attorney for a note or other claim placed in his hands for collection. (T. D.; February 23, 1867.)

**Conveyances of realty.**

The actual "consideration or value," and not merely the nominal, consideration determines the amount of stamp tax due on a conveyance of realty sold. (T. D.; February 23, 1867.)

**Certificates of marriage liable.**

A certificate of marriage issued by the officiating clergyman or magistrate, to be returned to any officer of a State, county, city, town, or other municipal corporation to constitute part of a public record, requires no stamp; but if it is to be retained by the parties a 5-cent stamp should be affixt. (T. D.; February 23, 1867.)

**Insurance permits.**

A permit issued by a life insurance company changing the terms of the policy as to travel, residence, occupation, etc., should be stamped as a contract or as an agreement. (T. D.; February 23, 1867.)

**Renewal of insurance policies.**

An instrument which operates as the renewal of a policy of insurance is subject to the same stamp tax as the policy itself; but such a receipt as is usually given for the monthly, quarterly, or annual payment of the premium is not a renewal within the meaning of the statute. The payment simply prevents the policy from expiring by reason of nonperformance of its conditions. A receipt given for such a payment requires a 2-cent stamp if the amount received exceeds $20. (T. D.; February 23, 1867.)

**Insurance expired, but renewed.**

When the time is past for the payment of the premium on a policy of insurance and a tender of the premium is not sufficient to bind the company, but a new policy or a new contract in some form, with the mutuality essential to every contract, becomes necessary between the insurer and the insured, the same amount of stamps should be used as that required on the original policy. (T. D.; February 23, 1867.)

**Mortgage, when taxed as contract.**

A mortgage given to secure a surety from loss or given for any purpose whatever other than as security for the payment of a definite and certain sum of money is taxable as only a contract or on agreement. (T. D.; February 23, 1867.)

**Receipts taken by administrators, etc.**

Receipts taken by administrators, executors, guardians, trustees, etc., to be used as vouchers upon the settlement of their accounts, are liable to the same stamp tax as other receipts. (T. D.; February 23, 1867.)

**Bond conveying real estate.**

A bond made to convey real estate requires stamps to the amount of 25 cents. (T. D.; February 23, 1867.)

**Mortgages, transfer, indorsements.**

Upon every assignment or transfer of a mortgage a stamp tax is required equal to that imposed upon a mortgage for the amount remaining unpaid. This tax is required upon every such transfer in writing, whether there is a sale of the mortgage or not; but no stamp is necessary upon the indorsement of a negotiable instrument, even tho the legal effect of such indorsement is to transfer a mortgage by which the instrument is secured. (T. D.; February 23, 1867.)

**Partition deeds taxable.**

Partition deeds between tenants in common need not be stamped as conveyances, inasmuch as there is no sale of realty, but merely a marking or a defining of the boundaries of the part belonging to each; but where money or other valuable consideration is paid by one cotenant to another for equality of partition there is a sale to the extent of such consideration, and the conveyance by the party receiving it should be stamped accordingly. (T. D.; February 23, 1867.)

**Broker's return of sales.**

Every broker should be required to state in his returns the entire amounts of all his sales, including those made thru other brokers; from such amounts he may deduct the amount of sales made by him thru other brokers and upon which a tax has been paid, and should himself pay a tax on the remainder. He should state in his return when, where, and by whom the sales deducted by him were made, and the assistant assessor should ascertain, by correspondence or otherwise, whether his representations are correct. (T. D.; February 23, 1867.)

**Gains of banks, railroads, and other corporations.**

In determining the amount of tax on the net gains of the corporations mentioned in sections 120 and 122, act of June 30, 1864, no deduction should be made on account of a part of the earnings being the interest on railroad bonds owned by them and upon which a tax has been withheld or on account of tax withheld by other corporations from dividends payable to them. Section 121, act of June 30, 1864, does not authorize any other deduction from the tax on dividends and surplus profits (not gains) than that for tax once paid by the same corporation on that part of its surplus fund which is taken to complete dividend. (T. D.; February —, 1867.)

**Toll roads—Tax on gross receipts.**

A tax accrues on the gross receipts of a toll road for each and every particular month when the gross receipts for the twelve consecutive calendar months next preceding have exceeded the amount actually and necessarily expended for repairs made during that term. (T. D.; February —, 1867.)

**Bonds of revenue inspectors.**

Section 31, act of March 2, 1867, requires that all inspectors appointed under the internal-revenue laws shall give bonds, with good security, for a sum not less than $5,000 for the faithful performance of duty. This requirement applies to inspectors of tobacco, snuff, and cigars, notwithstanding they have heretofore given bonds under a former act. Form 39, which has hitherto been used exclusively for inspectors of tobacco, will be so changed as to answer for all inspectors, and should be obtained from assessors for transmission to the Commissioner of Internal Revenue. (T. D.; March 11, 1867.)

**Peddlers of spirits, etc.—Special tax.**

A person who has paid a special tax as a peddler of distilled spirits, fermented liquors, or wines may sell them in the manner of a peddler in any quantity, and may also peddle tobacco and other merchandise without thereby incurring any further or other liability to special tax. (T. D.; March 30, 1867.)

**Dealers' and liquor dealers' liability.**

Dealers and liquor dealers may sell butchers' meat either at wholesale or retail, at their regular places of business, without thereby incurring liability to special tax as butchers; but such sales must be included with their other sales in ascertaining their liabilities as dealers or liquor dealers. (T. D.; March 30, 1867.)

**Waiver of protest—Stamp tax.**

A waiver of protest or of demand, and notice written on negotiable paper and signed by the indorser, is an agreement and as such requires a 5-cent stamp. (T. D.; March 30, 1867.)

**Farmers as manufacturers and sellers.**

A farmer who has produced tobacco on his farm incurs no liability to any special tax by reason of procuring its manufacture by a tobacconist. The person who manufactures it should pay a special tax of $10. If the farmer sells his tobacco after it has been manufactured, he should be taxed as a dealer or as a peddler, according to the amount of his sales and his manner of making them. (T. D.; March 30, 1867.)

**Mill owners—Special tax.**

The proprietor of a grist mill or of a flouring mill is a manufacturer, and should pay a special tax as such if his annual product of flour, meal, etc., exceeds $1,000 in value. (T. D.; March 30, 1867.)

**Beer barrels require one stamp.**

Section 53, act of July 13, 1866, requires the tax on fermented liquors to be paid in every case by the use of a single stamp on each package. (T. D.; March 30, 1867.)

**Insurance policies duplicated.**

When a policy of insurance properly stamped has been issued and lost, no stamp is necessary on another issued by the same company to the same party, covering the same property, time, etc., and designed simply to supply the loss. The second policy should recite the loss of the first. (T. D.; March 30, 1867.)

**Power of attorney to vote proxies.**

When a power of attorney or proxy for voting at any election for officers of any incorporated company or society, except religious, charitable, or literary societies, or public cemeteries is signed by several stockholders owning separate and distinct shares, it is in its legal effect the separate instrument of each and requires stamps to the amount of 10 cents for each and every signature. One or more stamps may be used representing the whole amount required. (T. D.; March 30, 1867.)

**Insurance policies renewed.**

When an insurance policy is issued for a certain time, whether for one year or for a term of years, a receipt for premium, or any other instrument which has the legal effect to continue the contract and extend its operation beyond that time, requires the same amount of revenue stamps as the policy itself. (T. D.; March 30, 1867.)

**Collector's fee for seizures.**

Where taxes are due and fraud is suspected it may be advisable to seize under section 48, act of June 30, 1864, or some other section authorizing seizure for fraud. In a case of this kind, if the seizure is converted into a distraint for taxes and the goods or property are sold the collector will, of course, charge the commission of 5 per cent allowed by section 28, act of June 30, 1864; but if, after distraint in such case and before sale, payment is made or the case compromised, the collector can not charge a commission. (T. D.; March 9, 1867.)

**Fees without service.**

Any officer, who shall demand or receive any fee without the actual performance of the service or work for which it is allowed, will thereby incur the penalty provided for extortion in section 36, act of June 30, 1864. The special attention of collectors is called to the clause in section 48, act of June 30, 1864, which provides that the cost of seizure, made before process issues from the court, "shall be taxable by the court." (T. D.; March 9, 1867.)

**Farmers' profits from sales.**

For purposes of taxation, the farmer's profits from sales of live stock are to be found by deducting from the gross receipts for animals sold the purchase money paid for the same. (T. D.; April 6, 1867.)

**Labor cost deductible from income.**

Money paid for labor, except such as used or employed in domestic service or in the production of articles consumed in the producer's family, may, for taxable purposes, be deducted from income. (T. D.; April 6, 1867.)

**Deductions for children's services.**

No deduction from taxable income can be made by the farmer for the value of services rendered by his minor children, whether he actually pays for such services or not. If his adult children work for him and receive compensation for their labor, they are to be regarded as other hired laborers in determining his taxable income. (T. D.; April 6, 1867.)

**Cost of unproductive labor.**

No deduction from taxable income can be allowed in any case for the cost of unproductive labor. If house servants are employed a portion of the time in productive labor, such as making butter and cheese for sale, a proportionate amount of the wages paid them may be deducted. (T. D.; April 6, 1867.)

**Deductions for depreciation of value.**

Taxpayers frequently claim deductions for losses from depreciation in the value of stocks or of other property of like nature. No deduction for taxable purposes can be allowed for depreciation in the value of such property until it is actually disposed of and a loss realized. (T. D.; April 6, 1867.)

**Returns of farmers' products.**

A farmer should make return of all his produce sold within a year, but a mere executory contract for a sale is not a sale for taxable purposes—delivery, either actual or constructive, being essential. The criterion by which to judge whether a sale is complete or not is to determine whether the vendor still retains in that character a right over the property—if, for instance, the property were lost or destroyed, upon which of the parties, in the absence of any other relation between them than that of vendor and vendee, would the loss fall. (T. D.; April 6, 1867.)

**Deduction of costs of legal proceedings.**

The costs of suits and other legal proceedings arising from ordinary business are to be treated as other expenses of such business and, with a view to taxable income, may be deducted from the gross profits thereof. (T. D.; April 6, 1867.)

**Salary of minor child.**

If a taxpayer has a minor child in the service of the Government, receiving a salary, such taxpayer should include in the return of his taxable income so much of the child's salary as is not subject to salary tax. (T. D. ; April 6, 1867.)

**Returns of separate income.**

Where the members of a family have separate incomes, the returns for taxing purposes may be made separately by the proper parties and a ratable proportion of the $1,000 exempted from the income of each. The parent as the natural guardian of the minor is required to make return for him. But, where any other guardian or trustee has been appointed, the return should be made by the latter. If the minor has no guardian or trustee, he should make return himself. If he refuse or neglect to do so, an independent assessment must be made, as in other cases, omitting penalty. (T. D.; April 6, 1867.)

**Income from gifts of money.**

Gifts of money, when clearly not in the nature of payment for services rendered or other valuable consideration, are not liable to taxation as income. Amounts received on life insurance policies and damages recovered in actions of tort are exempt from income tax. (T. D.; April 6, 1867.)

**Income of manufacturers and dealers.**

Where the manufacturer or dealer has been in the habit of estimating his annual profits by taking inventories of stock, he should take the cost value of such stock, unless he has taken the market value in making previous returns. Whichever method has been adopted by the taxpayer should be adhered to uniformly. (T. D.; April 6, 1867.)

**Income of lawyers and physicians.**

For purposes of taxation, lawyers and physicians may return either the actual fees received during the year without regard to the time when they accrued, or the amounts due to the business of the year. But, where the taxpayer has adopted one method, he can not be allowed to make use of the other. (T. D.; April 6, 1867.)

**Interest accrued but unpaid.**

If interest which has accrued during the year on notes, bonds, etc., is good and collectible at the end of the year, it should be returned, for taxable purposes, as income, whether actually collected or not. (T. D.; April 6, 1867.)

**Debts—Liquidation.**

The fact that a person's income is devoted to the payment of debts does not release the same from liability to income tax. (T. D.; April 6, 1867.)

**American citizens residing abroad.**

Citizens of the United States residing abroad are subject to tax on their entire income from all sources; and the same is true of foreigners residing in the United States. (T. D.; April 6, 1867.)

**Income of Government employees.**

Where the salary or pay of a person in Government employ does not exceed the rate of $1,000 per year, or is made up of fees, or is uncertain or irregular as to amount and time, and therefore has not been subjected to salary tax, it should be included with other taxable income. Where the salary exceeds $1,000 per annum, the amount of salary from which the tax has been deducted may be deducted from the gross income. (T. D.; April 6, 1867.)

**Incomes of deceased persons and estates.**

It is held that the incomes of persons who died after December 31, 1866, are taxable and should be returned by executors or administrators, and also all income which accrued in 1866, to persons who died within that year. Income which accrued from the estates of such persons in 1866, after the date of decease, should be returned by the heirs or other persons who received the benefit of the same. (T. D.; April 6, 1867.)

**Returns made in place of residence.**

Residents should make income returns in the district where they reside at the time of making return. The residence required under section 116, act of June 30, 1864, for the purpose of taxing income is held to be a residence during the year for which the income is "derived." If any person subject to income tax resides abroad, his return of income should be made in the district where he last resided. (T. D.; April 6, 1867.)

**Fees and gifts at marriage.**

Marriage fees, gifts from members of a congregation to their pastor, etc., are taxable as income when the gifts or donations are in the nature of compensation for services rendered, whether in accordance with an understanding to that effect at the time of settlement or with an annual custom. (T. D.; April 6, 1867.)

**Profits from patents.**

If an inventor sells his invention at once for a gross sum, he should return, as income, for taxable purposes the whole amount, less the expenses actually incurred in perfecting the invention or in procuring a patent right, but no allowance can be made for the labor or personal expenses of the inventor. If he sell only a portion of his right during the year, he may deduct a proportionate amount of such expense. (T. D.; April 6, 1867.)

**Income of legatee.**

Where any portion of a legacy has been transferred by the executor to the legatee so that the executor in his capacity of guardian or trustee has no longer any control of the profits arising from such legacy, the return of such profits as income must be required of the legatee. (T. D.; April 6, 1867.)

**Income from business, foreign and American.**

The law provides that a like tax shall be levied, collected, and paid on the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States and not citizens thereof. (T. D.; April 6, 1867.)

**Profits undivided.**

The attention of assessors is especially called to the terms of the law requiring to be included in returns of income the share of any person of the gains and profits of all companies, whether incorporated or partnership, who would be entitled to the same if divided, whether divided or otherwise. (T. D.; April 6, 1867.)

**Bonds and securities—Income tax.**

It appears that in many instances in the assessment of income for former years, persons holding United States securities have not included accruing interest in the return of their income. Assessors should make special inquiry into this matter, and where the omission is apparent the deficiency should be assessed, but without penalty when it appears to have been due to a misapprehension of law. (T. D.; April 6, 1867.)

**Income from legacy or succession.**

The payment of legacy or succession tax on the bequest of an annuity does not relieve the annuitant from liability to income tax on his annuity. (T. D.; April 6, 1867.)

**Profits from sale of lease.**

A lease for years or for life is held to be personal estate, and any profit derived from the sale of such a lease is taxable as income for the year of sale. (T. D.; April 6, 1867.)

**Losses in business.**

Assessors are instructed not to allow the deduction of amounts claimed to have been lost in business when in reality they should be regarded as investments or expenditures, as when merchants expend money in farming or gardening for recreation or for adornment, rather than for pecuniary profit. (T. D.; April 6, 1867.)

**Dealers' tax—Basis of assessment.**

The special tax of dealers must be assessed on the basis of all sales made either by themselves or thru others, except those sales that are made thru other wholesale dealers on commission. (T. D.; April 6, 1867.)

**Receipts of special tax—Transfer and renewal.**

Special-tax receipts are not transferable, but in case of removal the taxpayer is liable to additional tax, unless the fact of removal is registered as provided in section 75, act of June 30, 1864. (T. D.; April 6, 1867.)

**Dealers' or manufacturers' tax.**

Manufacturers may, without additional liability, sell their wares at the place of manufacture, or at their principal office, provided no wares are kept except as samples at such office. But if a manufacturer sell at his factory or at his office goods not of his own production he must pay tax as a dealer, if such sales exceed $1,000 per annum, and such tax will be assessed upon his sales of such goods only, and not upon sales of his own manufacture. (T. D.; April 6, 1867.)

**Banks and bankers.**

The special tax of a bank should be assessed upon its chartered capital, and that of a banker upon the amount of capital which he uses or employs. (T. D.; April 6, 1867.)

**Brokers, agents, etc.**

The tax required under the proviso to section 76, act of June 30, 1864, for land-warrant brokers, claim agents, and real estate agents, or for either two of the classes named therein, is $25. (T. D.; April 6, 1867.)

**Liability to special tax.**

Liability to special tax often depends on the question whether the party makes a business of doing the acts specified. Occasional acts do not render a person liable to special tax, but it is not necessary that the business should be his sole business, or even his principal one, in order that he may be held liable: If a person advertises by words, deeds, or writing that he is ready to transact any kind of business subject to special tax, he must pay such tax, altho said business may not be his chief occupation. Wholesale and retail dealers in liquors, lottery-ticket dealers, distillers, brewers, rectifiers, coal oil distillers, insurance agents, peddlers, photographers, circuses, jugglers, bowling alleys, proprietors of gift enterprises, and lawyers are liable to special tax under the revenue act. (T. D.; April 6, 1867.)

**Reassessment of retail dealers.**

Whenever a retail dealer is found to have made sales exceeding $25,000 he should be assessed as a wholesale dealer from the date of his liability as a retail dealer. The collector should indorse on his tax receipt the amount of reassessment paid. (T. D.; April 6, 1867.)

**Retail liquor dealers—Act of 1867.**

Under the act of March 2, 1867, a retail liquor dealer may sell liquors in quantities of more than 3 gallons at one time to the same purchaser without being thereby rendered liable as a wholesale liquor dealer. (T. D.; April 6, 1867.)

**Dealers in liquors and other merchandise.**

Wholesale dealers in liquors may sell liquors at retail, and both wholesale and retail dealers in liquors may sell other merchandise, and may sell liquors to be drank on the premises, without payment of additional special tax, but all sales must be included in the basis of their special tax as dealers. (T. D.; April 6, 1867.)

**Brewers and rectifiers selling by retail.**

Brewers and rectifiers may sell their liquors at the brewery or place of rectification in large or small quantities, to be drank on the premises or not, without payment of other special tax. Brewers and rectifiers may also deliver their liquors upon orders, previously received, to their regular customers about the country without payment of special tax as peddlers. (T. D.; April 6, 1867.)

**Wares in unbroken packages.**

Original or unbroken packages or pieces, as referred to in paragraph 32 of section 79, act of June 30, 1864, are held to be packages or pieces sold just as they come from the manufacturer, wholesale dealer, or importer, without being broken or divided. (T. D.; April 6, 1867.)

**Conveyancers—Preparation of legal papers.**

Persons engaged in the business of preparing legal papers in support of claims against the General Government, who do not present the claims personally nor by letter before the Departments, should be taxed as conveyancers, unless paying special tax as lawyers or as claim agents. (T. D.; April 6, 1867.)

**Liability as hotel keepers.**

Farmers and others who frequently furnish food and lodging to travelers for pay should be taxed as hotel keepers. But an occasional act of that kind should not be so construed as to render a person liable to special tax under the revenue law. (T. D. April 6, 1867.)

**Patent-right dealers.**

Persons whose business it is to sell patent rights should pay tax as patent-right dealers, altho they sell patent rights for their own inventions alone. Assessors will observe that a patent-right dealer is subject to a different special tax from that of a patent agent. (T. D.; April 6, 1867.)

**Trustees and guardians not liable.**

Trustees and guardians should not be required under the revenue law to pay tax as real estate agents for either renting or selling property held in trust. (T. D.; April 6, 1867.)

**Conveyancer liable to tax.**

Every person, other than one paying special tax as lawyer or claim agent, who makes it his business or any part of his business to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, who, by advertisement or conversation, or by accepting the business whenever it is offered, holds himself out to the public as ready to undertake it, is a conveyancer, and should be required to pay tax as such. (T. D.; April 6, 1867.)

**Hotels and boarding-house tax.**

The act of June 30, 1864, does not impose a special tax on boarding-house keepers as such. Hotels are open to all who choose to enter, without previous stipulation respecting entertainment, unless the house is full. Boarding houses are open to those only who by previous arrangement have acquired a right to entertainment at such rate of payment as may be agreed upon. (T. D.; April 6, 1867.)

**Sales at wholesale.**

Sales made at wholesale under paragraph 32, section 79, act of June 30, 1864, are understood to mean sales to others to sell again without reference to the quantity sold. (T. D.; April 6, 1867.)

**Cattle brokers.**

Cattle brokers are required to be assessed under the revenue law, on the excess of sales over $10,000, in the same manner as wholesale dealers. (T. D.; April 6, 1867.)

**Retail dealer selling out stock.**

A retail liquor dealer, with the intention to close up his business, may sell out his whole stock at one auction sale to different purchasers, or may sell the whole at private sale to one purchaser, without payment of special tax as a wholesale dealer in liquors. (T. D.; April 6, 1867.)

**Manufacturers' agents not commercial brokers.**

Persons traveling through the country as the agents of dealers or of manufacturers, seeking orders for goods as agents of one person or firm only, and who are paid a salary, but receive no commissions, should not be required to pay tax as produce or commercial brokers. (T. D.; April 6, 1867.)

**Lotteries for charity.**

All applications for permits to hold lotteries, etc., for charitable purposes, free of tax, must be made through the collector of the district, and should bear his recommendation. (T. D.; April 6, 1867.)

**Reassessment of apothecaries, etc.**

Apothecaries, confectioners, plumbers, and gas fitters whose annual sales exceed $25,000 are required to pay, in addition to the special tax, $1 for every $1,000 of sales in excess of said $25,000, the taxes on such sales to be assessed and paid in the manner provided in the case of wholesale dealers. (T. D.; April 6, 1867.)

**Sales of medicated liquors.**

When spirituous liquors are medicated or mixed with foreign substances, but so slight that they are still used as beverages and sold as such, the special tax of a liquor dealer will be required of the seller. When the medication or admixture is carried to such an extent that the liquor is no longer susceptible of being used as a beverage, such tax will not be required. (T. D.; April 6, 1867.)

**Peddlers and commercial brokers**

The liability of peddlers and commercial brokers to special tax depends upon the acts done, and is not affected by the fact that the party is employed by others and is acting merely as an agent. (T. D.; April 6, 1867.)

**Manufacture of butter and cheese.**

Under the act of March 2, 1867, no special tax is required of any person engaged in the manufacture of butter and cheese. (T. D.; April 6, 1867.)

**Builders and contractors.**

It is held that builders and contractors are not subject to special revenue tax in any year in which they do not construct on contract, nor unless their contracts are in excess of $2,500. (T. D.; April 6, 1867.)

**Admeasurement of boats, barges, etc.**

In assessing the special tax on boats, barges, and flats under the list to section 103, act of June 30, 1864, the capacity is to be determined by the customs admeasurement. (T. D.; April 6, 1867.)

**Apothecaries selling wines and liquors.**

Apothecaries who have paid the special tax as such are not required to pay tax as retail dealers in liquors, in consequence of selling, or of dispensing upon physicians. prescriptions, the wines and spirits officinal in the United States, or other national pharmacopœias, in quantities not exceeding half a pint of either at one time, not exceeding in aggregate cost value the sum of $300 per annum, nor in consequence of selling alcohol. (T. D.; April 6, 1867.)

**Manufactures—Carpetbag and cabas frames.**

By the act of March 2, 1867, carpetbag and cabas frames are exempted from taxation. The exemption applies only when the frames are made and sold by parties who do not finish or complete the bags or cabas. The finished article is subject to an ad valorem tax of 5 per cent. (T. D.; April 13, 1867.)

**Boxes and packing boxes.**

All boxes used as the receptacles of other goods, wares, or merchandise are to be regarded as packing boxes within the meaning of the internal-revenue laws as amended by the act of March 2, 1867, and are, therefore, exempt from tax. (T. D.; April 13, 1867.)

**Manufactures of wrought iron, etc.**

By the act of July 13, 1866, railroad chairs and fish plates, railroad, boat, and ship spikes, ax polls, iron axles, shoes for horses, mules, and oxen, rivets, horseshoe nails, nuts, washers, bolts, vises, iron chains, and anchors were exempted from tax when made of wrought iron which had paid the tax or duty assessed thereon. This conditiona exemption of said articles is made absolute by the act of March 2, 1867, which exempts the iron from which they are made. (T. D.; April 13, 1867.)

**Income—Losses on sales of real estate.**

It is held that, for the purpose of taxing income, losses within the year 1866 on sales of real estate purchased since December 31, 1863, may be deducted in a return of income for the year 1866. (T. D.; April 13, 1867.)

**Deductions of municipal assessments.**

Assessments made on the property holders of a certain locality in a city or town by the municipal authorities, on account of special improvements in or upon streets adjoining their premises, should be allowed as deductions from the income of the persons assessed. (T. D.; April 13, 1867.)

**Insurance deductions.**

The amount paid by a taxpayer for insurance should not be allowed as a deduction in determining his taxable income, except where it is properly an expense of business. (T. D.; April 13, 1867.)

**Income—Sale of stocks.**

When stocks are sold at less than their cost, the difference between their actual cost and the price at which they are sold should be allowed as a deduction in estimating the taxable income of the year in which the sale is made. (T. D.; April 13, 1867.)

**Manufacturer of compounds—Trade-marks.**

A person who is engaged in the manufacture or preparation for sale of any article or compound, or who puts up for sale in packages, with his own name or trade-mark thereon, any article or compound, is liable to a special tax as a manufacturer, without regard to the amount manufactured, prepared, or put up by him. (T. D.; April 13, 1867.)

**Conveyance in consideration of marriage.**

In law, the consideration of marriage is a valuable one. A conveyance of real estate made in prospect of marriage, and in consideration thereof, does not confer a succession within the meaning of the internal-revenue laws. (T. D.; April 13, 1867.)

**Mortgage stamp tax—Security of payment.**

The stamp tax on a mortgage is based upon the amount it is given to secure. The fact that the value of the property mortgaged is less that amount, and that consequently the security is only partial, does not change the liability of the instrument. When, therefore, a second mortgage is given to secure the payment of a sum of money partially secured by a prior mortgage upon other property, or when two mortgages upon separate property are given at the same time to secure the payment of the same sum, each mortgage should be stamped as though it were the only one. (T. D.; April 13, 1867.)

**Income—Deduction of worthless debts.**

Debts believed to be good December 31, 1865, but found to be absolutely worthless in 1866, may be deducted from the income of the creditor for the latter-named year, if never deducted before, for taxable purposes. (T. D.; April 20, 1867.)

**Deposit notes—Fire insurance policies.**

The stamp tax upon a fire insurance policy is based on the premium. Deposit notes taken by a mutual fire insurance company, not as payment of premium nor as evidence of indebtedness therefor, but to be used simply as a basis upon which to make ratable assessments to meet the losses incurred by the company, should not be reckoned as premium in determining the amount of stamps on the policies. (T. D.; April 20, 1867.)

**Deductions of insurance.**

Insurance paid by a landlord upon buildings leased by him may be deducted from his income for the year in which it is paid. (T. D.; April 20, 1867.)

**Losses of capital.**

Losses of capital, such as losses by robbery, losses as surety, etc., can not be deducted from income for taxable purposes. (T. D.; April 20, 1867.)

**Insurance deductible from income.**

It is held that amounts paid for insurance should not be allowed as a deduction in estimating the amount of taxable income, except where it is properly an expense of business. (T. D.; April 27, 1867.)

**Deductions from income—Improvements and repairs.**

Construing section 117, act of June 30, 1864, relating to the expressions "permanent improvements," "betterments," and "repairs" as affecting the increase in the value of property, it is held that amounts expended on "improvements or betterments," as defined by the law, are not deductible in estimating the amount of taxable income, but the cost of "repairs," not exceeding those usually or ordinarily made, may be allowed. In estimating the amounts to be allowed for repairs the assessor must determine according to the circumstances of the case. (T. D.; April 27, 1867.)

**Bonds of county officers.**

The official bonds of town and county officers require a $1 stamp in all cases as a bond for the due execution or performance of the duties of an office. It is not lawful to record any instrument or paper required by law to be stamped unless a stamp or stamps of the proper amount shall have been duly affixt and canceled, and the record of such instrument is utterly void and can not be used in evidence. (T. D.; April 27, 1867.)

**Beer stamps—Affixing and canceling.**

The manner of affixing and canceling beer stamps is prescribed in section 53, act of July 13, 1866 (149 of compilation), and by the same section a penalty is imposed upon every brewer who refuses or neglects to "affix and cancel the stamp or stamps required by law" in the manner prescribed. Both the affixing and canceling are required, and the omission of either by a brewer renders him liable to a penalty and imprisonment. (T. D.; April 27, 1867.)

**Transportation—Tax on gross receipts.**

The Secretary of the Treasury holds that all persons, firms, companies, etc., engaged in the business of transporting passengers or mails in pursuance of contracts made prior to August 1, 1866, for hire are liable upon their gross receipts accruing from such transportation after August 1, 1866, whether using vessels that pay tonnage duties or not. (T. D.; April 27, 1867.)

**Legacies and successions not income.**

It is held that legacies and successions are not returnable as income, but when a legacy or succession consists of an annuity for a term of years the annual payments constitute income and should be taxed as such, altho a succession tax or a legacy tax may have been paid upon the present worth of the annuity. (T. D.; May 4, 1867.)

**Income from real estate.**

If part of a piece of real estate purchased since December 31, 1863, was sold in 1866, the excess of the sum received therefor over the sum paid for the same portion should, for taxable purposes, be returned as income. (T. D.; May 4, 1867.)

**Bonds and mortgage—Stamp tax.**

Whenever a bond or note is secured by a mortgage only one stamp is necessary upon such papers, provided that the stamp tax placed thereon shall be the highest required for such instruments or either of them as indicated in section 160, act of June 30, 1864. A mortgage given to secure bonds which are to be issued from time to time as sales of them are made is valid so far as stamp taxes are concerned, tho no stamps are affixt, if the bonds are properly stamped as provided in section 160, as they are issued. (T. D.; May 4, 1867.)

**Exemption of certain manufacturers.**

When the products of a manufacturer do not exceed the rate of $3,000 per annum, or $250 per month, they are exempt from taxation to the extent of the rate of $1,000 per annum, or $83⅓ per month. When they exceed the first-named rate the entire amount is taxable. Photographers are entitled to the same rate of exemption. (T. D.; May 11, 1867.)

**Articles of dress—Revenue tax.**

The act of July 13, 1866, exempts articles of dress made or trimmed by milliners or dressmakers for the wear of women and children. This exemption does not apply to articles made or trimmed by parties who merely carry on the business of manufacturing them, who furnish materials and employ others to do the work, but do not personally engage in the actual manual labor, nor to dealers in millinery goods who trim ladies' bonnets and hats. The act of March 2, 1867, makes no change in the law in this particular. (T. D.; May 11, 1867.)

**Slates for roofing and for schools.**

By the act of July 13, 1866, building stone, including slate, etc., is exempted from internal tax. This exemption includes roofing slates, but slates for the use of schools are taxable at the rate of 5 per cent ad valorem. (T. D.; May 11, 1867.)

**Bonnet frames.**

For purposes of taxation bonnet frames are to be regarded as unfinished bonnets and liable to an ad valorem tax of 2 per cent under that clause of section 94, act of June 30, 1864, which relates to hats, caps, bonnets, and hoods of all descriptions. (T. D.; May 11, 1867.)

**Income—Payments for injuries.**

Money received from a railroad corporation on account of personal injuries is not held to be taxable as income. (T. D.; May 11, 1867.)

**Exemption—Baggage and express wagons.**

By the act of March 2, 1867, wagons, carts, and drays made to be used for farming, freighting, or for lumber purposes are exempted from tax. Baggage wagons made for carrying freight exclusively, and not to be used as pleasure carriages, are exempt from tax under the provisions of this act. (T. D.; May 11, 1867.)

**Acts of 1866 and 1867 affecting castings.**

The act of July 13, 1866, exempts thimble skeins and pipe boxes made of steel, and the act of March 2, 1867, exempts them when made of iron. These articles are ordinarily made from castings. In their finished state they are exempt from tax, but the castings from which they are made are liable to a specific tax of $3 per ton. (T. D.; May 11, 1867.)

**Manufacturers—Special tax.**

Under the internal revenue law, the exemption or nonexemption of articles produced from a specific or ad valorem tax does not affect the liability of the manufacturer thereof to a special tax. (T. D.; May 11, 1867.)

**Payments of monthly tax.**

It is held that, unless notice is given and demand of payment is made prior to the day on which a monthly tax falls due, there is no liability to a penalty for nonpayment. (T. D.; May 11, 1867.)

**Contract for sale of land, etc.**

A contract for the sale of land or to make a title deed to the purchaser on the payment of the purchase money requires a 5-cent stamp, as an agreement, for each sheet or piece of paper on which it is written. (T. D.; May 11, 1867.)

**Drawback on exportations of engines.**

If a manufacturer exports engines or boilers he is entitled to a drawback for the excise tax paid thereon; but if the engines and boilers are incorporated into and made part of a steamship—built for or sold to parties in a foreign country—no drawback can be allowed for taxes paid upon them or for taxes paid upon any other parts or materials which enter into the structure of the ship. (T. D.; May 11, 1867.)

**Deductions of losses from income.**

For purposes of taxing income, the law allows for certain losses of capital, but only for losses by fire, shipwreck, losses incurred in trade, and losses from debts ascertained in 1866 to be worthless. The loss of a stock company by fire or by shipwreck, if such companies were liable to income tax, would be duductible from the income of such companies, not from the income of the stockholders themselves. The fact that such companies are not subject to income tax makes a loss of this character none the less a loss of the company, and, therefore, the assessor should be careful not to allow such loss to be deducted from the individual income of any stockholder. (T. D.; May 11, 1867.)

**Meters adopted for distilleries.**

In regard to regulations governing the adoption of Tice's meter for distilleries, collectors are instructed to notify every distiller who applies to make payment of the special tax for the year ending May 1, 1868, that he will not be allowed to continue in operation after the 15th of the month, unless he shall have previously made application for a meter, accompanying his application with adequate security for the payment of the necessary expense, which will probably vary according to the size of the distillery. (T. D.; April 19, 1867.)

**Income of underlying and of mined coal.**

For the purpose of taxing income from the purchase and sale of underlying coal and of mined coal, it is held that coal after it is mined—that is, brought to the surface—is personal property, and a sale of underlying coal, to be paid for at a certain rate for each ton mined, should be treated as a sale of personalty. The miner's profit on his sale of mined coal is the excess of the amount received for it over what it cost him. In determining the cost the amount paid for the underlying coal may be included, but not the value of the personal services of himself and family. The profit of the owner of the mine or coal lands is the excess of the sum received for the quantity sold over its estimated cost. (T. D.; May 18, 1867.)

**Deductions on account of taxes.**

For taxable purposes, all national, State, and county and municipal taxes paid within the calendar year for which the income is being assessed should be allowed as a deduction, but such taxes when not actually paid until 1867 should not be deducted from the income of 1866, even though they may have been due and payable in that year. (T. D.; May 18, 1867.)

**Exemption annually of manufacturers.**

When a manufacturer is engaged the entire year in the production of a taxable manufacture, but on account of the character of the article or for other reasons his sales are not made monthly, he is entitled to the exemption of $1,000 per annum if his sales do not exceed $3,000 annually, tho they may exceed $250 per month. (T. D.; May 18, 1867.)

**Publisher's special tax.**

The publisher of a newspaper is liable to a special tax as a manufacturer if the papers sold by him, either by subscription or otherwise, together with the job work performed in his printing office, exceeds $1,000 per annum. (T. D.; May 18, 1867.)

**Income and rental.**

When a taxpayer owns a homestead, the rental value of which is not returned as income, he should not be allowed to deduct the amount paid by him "for the rent of the house or premises occupied as a residence for himself or his family" elsewhere. (T. D.; March 18, 1867.)

**Recovery of alcohol by druggists.**

The law provides that "no tax shall be imposed for any still or stills or other apparatus used by druggists or chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes." It is held, however, not to be essential that the recovery be made at the druggist's shop or place of business. (T. D.; May 25, 1867.)

**Manufacturers of stills, apparatus, etc.**

By section 25, act of July 13, 1866, every person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling is required, under a heavy penalty, before the same is removed from the place of manufacture, to notify the collector where such still, boiler, or other vessel is to be used or sent or by whom it is to be used and of its capacity and the time when the same is to be sent or set up. He should, therefore, inform himself of the use for which each boiler or other vessel is designed, or he may notify the collector in every case indiscriminately. (T. D.; May 25, 1867.)

**Liabilities of distiller's sureties.**

The sureties on the bond of a distiller are held to be liable on the bond for the distiller's failure to pay the compensation due the inspector of the distillery. (T. D.; May 25, 1867.)

**Inspectors and storekeepers of warehouses.**

By the act of March 2, 1867, the office of distillery inspector was abolished and thereafter, if the distiller continued to run his bonded warehouse and the person who had been inspector performed the usual duties of storekeeper, the distiller is required to pay him the compensation due to a regularly appointed storekeeper from and after March 2, 1867. (T. D.; May 25, 1867.)

**Checks, memorandums, receipts—Stamp tax.**

Every "memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid upon demand or at a time designated" is subject to stamp tax at the same rate as a promissory note. When a loan is obtained on collateral security and an instrument is given showing the receipt of money, it should be stamped at the rate of 5 cents for each $100, or fractional part thereof. (T. D.; May 25, 1867.)

**Purchase of realty—Stamp tax.**

Under the revenue law, a note or bond given for a part of the consideration for realty sold and conveyed is not relieved from stamp tax by the fact that a lien to secure the payment thereof is retained in the conveyance. (T. D.; May 25, 1867.)

**Publisher's liability—Special tax.**

A publisher who does not himself print the books or newspapers published and sold by him is liable under the act of June 30, 1864, to special tax as a dealer and not as a manufacturer. (T. D.; May 25, 1867.)

**Conveyances of partnership realty.**

For taxable purposes under the revenue law, it is held that when the members of a business firm obtain an act of incorporation and the partnership realty is conveyed to the corporation, each partner receiving stock therein to the amount of his partnership interest, the deed from the firm to the corporation should be stamped like ordinary deeds at the rate of 50 cents for each $500, or fractional part of $500 of the consideration or value. (T. D.; June 1, 1867.)

**Conveyances of realty and personalty combined.**

When a deed covers both realty and personalty combined, it should be stamped at the rate of 50 cents for each $500, or fractional part of $500 of the consideration or value of the realty, and as a contract or agreement on account of the personalty. (T. D.; June 1, 1867.)

**Powers of attorney, and other papers.**

No stamp tax is required on powers of attorney or on any other papers relating to applications for bounties, "averages of pay," or pensions, or to the receipt thereof from time to time. This exemption applies to those papers only which relate to United States bounties, etc.; a power of attorney to indorse the official check of a United States disbursing officer issued for money to be applied in payment of a United States bounty, or pension, or in discharge of a claim against the United States for what is technically known as "averages of pay" is a paper relating to the receipt of such pension or bounty and therefore is exempt from tax. (T. D.; June 1, 1867.)

**Blacksmiths and stencil cutters.**

Blacksmiths and stencil cutters should be required to pay special taxes as manufacturers if the articles manufactured by them exceed in value $1,000 per annum. (T. D.; June 1, 1867.)

**Horse nets—Increased value.**

Horse nets, when manufactured from untaxed materials, are subject to a tax of 5 per cent upon their entire value, but when made from thread, yarn, or warp upon which a tax has been paid the tax is on the increased value. (T. D.; June 1, 1867.)

**Castings—Railroad tracks.**

Railroad iron, railroad iron rerolled, and wrought-iron railroad chairs are exempt from a tax, but castings, such as those used to form the curves of railroad tracks, are taxable at the rate of $1 per ton. (T. D.; June 1, 1867.)

**Theatrical companies—Special tax.**

The proprietor of a theatrical company is liable to a special tax under paragraph 38 of section 79, act of June 30, 1864, for each and every State in which he exhibits in any other places or edifices than those the proprietors of which have been taxed under paragraph 37 of the same section. (T. D.; June 1, 1867.)

**Retail liquor dealers—Special tax.**

A person who keeps an eating house is not relieved from the special tax imposed upon the keeper of such a house by reason of having paid a special tax as liquor dealer; but his sales of spirits, wines, ale, beer, and other malt liquors should not be taken in determining his liability as the keeper of an eating house. (T. D.; June 8, 1867.)

**Rice mills—Tax on proprietor.**

The proprietor of a rice mill should pay a special tax as a manufacturer if he hulls or grinds rice to an amount exceeding $1,000 per annum. (T. D.; June 8, 1867.)

**Glassware cutters as manufacturers.**

A person whose business it is to cut glassware, such as tumblers, decanters, etc., is a manufacturer within the meaning of the excise law, and should be required to pay a special tax as such if the value of the work performed by him exceeds $1,000 per annum. (T. D.; June 8, 1867.)

**Manufacturers, distillers, and brewers—Liability.**

A manufacturer, distiller, or brewer who has ceased to manufacture and who, after the expiration of the time specified in his license or special tax receipt, as such sells his manufactures at the place of manufacture, becomes liable to special tax as dealer or liquor dealer, wholesale or retail, according to the amount of his annual sales. (T. D.; June 8, 1867.)

**Repairs of old and manufacture of new railroad cars.**

In relation to the mode of taxing railroad cars, it is held that the act of July 13, 1866, exempts from taxation repairs of articles of all kinds. This exemption leaves the question of taxation of railroad cars precisely where it was prior to the act of

**Repairs of old and manufacture of new railroad cars**—Continued.

June 30, 1864, with these exceptions, viz: The present law exempts car wheels from taxation, but prior to June 30, 1864, the tax paid on car wheels was allowed to be deducted from the tax assessed on the finished car, and the present law imposed a tax of 5 per cent ad valorem, while the act of July, 1862, imposed only 3 per cent ad valorem. Under the act of July, 1862, this office ruled that every new car or locomotive must be regarded as a manufacture, and taxable as such. Repairs are not taxable under existing law. (T. D.; June 8, 1867.)

**Exemptions and taxes under old and new laws.**

Wheels and other castings of iron, copper, or brass which are in themselves separate and distinct manufactures, made for cars or used in the repairs of cars prior to March 2, 1867, were not exempted from tax. But by the act of March 2, 1867, all castings for cars are exempt, whether used in the construction of new work or in repairs. Machine shops for the making of repairs are not taxable. (T. D.; June 8, 1867.)

**Bills of exchange—Foreign and inland.**

A foreign bill of exchange or letter of credit drawn in, but payable out of the United States, if drawn singly, or otherwise than in sets of three or four, according to the custom of merchants and bankers, is liable to the same stamp as an inland bill of exchange; that is, if drawn at sight or on demand it is liable to a tax of 2 cents. If drawn otherwise than at sight or on demand, it should be stamped at the rate of 5 cents for each $100 or fractional part thereof. Duplicates require the same amount of stamps as their originals. (T. D.; June 15, 1867.)

**Leases—Receipts by indorsement.**

A receipt by indorsement upon a stamped obligation in acknowledgment of its fulfilment is exempt from stamp tax. Fulfilment as used in this connection in Schedule B is understood to mean completion or accomplishment—entire fulfilment. No receipt is subject to a stamp tax unless it is issued. When a receipt for an installment of rent is written on that part of a lease held by the tenant and issued to him, a two-cent stamp should be affixt to it if the amount received exceeds $20. (T. D.; June 15, 1867.)

**Policy fees—Special tax.**

A policy fee paid in the ordinary manner by the party insured to an insurance agent for his services in making a survey of the premises to be insured is not to be included as part of the taxable gross receipts of premium by the company; it is, however, a part of the receipts of the agent, and should be taken into consideration in determining the extent of his liability to special tax under the revenue law. (T. D.; June 15, 1867.)

**Peddlers selling by original packages.**

Peddlers who sell articles in packages as they come from the manufacturer, or wholesale dealer, should pay the tax of $50 imposed by the first proviso to paragraph 32, section 79, act of June 30, 1864. (T. D.; June 15, 1867.)

**Income deduction—Traveling expenses.**

The expenses necessarily incurred for conveyances in traveling from place to place in the prosecution of one's business may be deducted in making a return of income for taxable purposes, but no deduction should be made on account of hotel bills and other expenses of living. (T. D.; June 15, 1867.)

**Capital paid for "good will."**

Money paid by a person for the "good will" of a business is classed as capital invested, and not as a loss to be deducted from income for taxable purposes. (T. D.; June 15, 1867.)

**Exemptions and deductions—Manufactures.**

The act of June 30, 1864, exempted from taxation the value of bullion used in the manufacture of silverware, and silver bullion rolled or prepared for plater's use exclusively. The act of July 13, 1866, extends the exemption to "the value of bullion used in the manufacture of wares, watches, and watch cases." Manufacturers of silverware, wares, watches, and watch cases, in making their returns, are entitled to a deduction of the cost of the bullion used by them from the gross amount of their actual sales. (T. D.; July 15, 1867.)

**Checks—Stamp tax.**

A check drawn by an individual upon himself, or drawn upon a bank by its cashier in his official capacity, and in the discharge of his official duty, is, in its legal effect, "written or printed evidence of an amount of money to be paid on demand, or at a time designated," and should be stamped like a promissory note at the rate of 5 cents for each $100 or fractional part thereof. (T. D.; June 15, 1867.)

**Manufacturers of various kinds—Special tax.**

A manufacturer is held, under the revenue law, to be "any person, firm, or corporation who shall manufacture, by either hand or machinery, any goods, wares, or merchandise not otherwise provided for, exceeding annually the sum of one thousand dollars, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages, with his own name or trade-mark thereon, any articles or compounds, shall be regarded as a manufacturer." The nonliability of persons to special tax as manufacturers, whose manufactures do not exceed $1,000 per annum, does not extend to those described in the last part of the above quotation, but all such persons are required to pay a special tax as manufacturers, regardless of the amount manufactured, prepared, or put up by them. (T. D.; June 22, 1867.)

**Jurisdiction of courts in revenue cases.**

At the December term, 1866, the Supreme Court of the United States, in an opinion delivered by Chief Justice Chase, deciding the appeal of the Merchants' Insurance Company (appellants) *v.* Thomas Ritchie, from a judgment of the circuit court for the district of Massachusetts, held that the act of July 13, 1866, takes away the jurisdiction of suits between citizens of one State and citizens of the same State in internal-revenue cases, conferred by the act of March 2, 1833, and the internal-revenue act of June 30, 1864. (T. D.; June 22, 1867.)

**Exemption of manufacturers of jewelry.**

The exemption from tax in paragraph 93, act of July 13, 1866, does not relate to manufactures from gold and silver, but to the production of bullion or the product of the assayer. Manufacturers of jewelry are entitled to the exemption of $1,000 in the same manner and under the same circumstances as the manufacturers of other articles. (T. D.; June 29, 1867.)

**Exemption of manufacturers—Repairs.**

When the products of a manufacturer do not exceed the rate of $3,000 per annum, or $250 per month, they are exempt from taxation to the extent of the rate of $1,000 per annum. When they exceed $3,000 per annum, the entire amount is taxable. Repairs are not taxable and, therefore, are not to be taken into consideration in determining the manufacturer's right to this exemption. (T. D.; June 29, 1867.)

**Appeals to the Commissioner of Internal Revenue.**

Circular No. 64 is issued by the Commissioner setting forth regulations relating to appeals to the Commissioner of Internal Revenue under section 19, act of July 13, 1866, which provides that "no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally assessed or collected

**Appeals to the Commissioner of Internal Revenue**—Continued.

until appeal shall have been made to the Commissioner of Internal Revenue according to the provisions of law," and a decision of the Commissioner thereon, "unless such suit shall be brought within six months from the time of said decision, or within six months from the time this act takes effect: *Provided*, That, if such decision shall be delayed more than six months from the date of said appeal, then said suit may be brought at any time within twelve months from the date of such appeal, and no suit for the purpose of restraining the assessment or collection of tax shall be maintained in any court." (T. D.; June 29, 1867.)

**Certificate as to administration of oaths.**

The act of March 2, 1867, relieves all affidavits from stamp tax, but the certificate of the clerk of a court or of any other person concerning the official character of the person who signs the jurat, the genuineness of the signature, and the authority of that person to administer oaths is still, like every other certificate, subject to a stamp tax of 5 cents. (T. D.; June 29, 1867.)

**Refunding erroneously assessed taxes.**

As to remitting, refunding, and paying back taxes erroneously assessed, attention is called to section 44, act of June 30, 1864, which provides that "the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all taxes erroneously or illegally assessed, or collected without authority, and all taxes that shall appear to be unjustly assessed, or excessive, or in any manner wrongfully collected." In all appeals to the Commissioner a statement should be set forth, enabling him to acquire a full knowledge of the facts relating to the claim. (T. D.; June 29, 1867.)

**Iron window sills—Taxation.**

It is held that cast-iron window sills have been exempt from taxation since March 1, 1867, under that provision of the act of March 2, 1867, which exempts "doors, window sash, blinds, frames, and sills of whatever material." (T. D.; July 6, 1867.)

**Income—Sales of products and cotton.**

The amount received by a farmer or a planter upon his sales of farm products, including cotton, should be returned as income of the calendar year in which the sales are made, regardless of the time when the products sold were raised. (T. D.; July 6, 1867.)

**Income—Expenses of farm, taxes, etc.**

The expense of carrying on a farm or a plantation may be deducted for taxable purposes from the income of the year when it was paid, and from the income of that year only. A national, State, county, and municipal tax, including taxes upon cotton, may be deducted from the income of the person by whom they are actually paid for the year in which they are actually paid. Care, however, should be taken not to allow the deduction of the tax upon cotton twice, once from the gross receipts of sale, or as an expense of business, and again as a national tax. (T. D.; July 6, 1867.)

**Monthly and special tax—Wholesale dealers.**

A wholesale dealer whose annual sales do not exceed $50,000 is required to pay a special tax of $50 and $1 additional for each additional $1,000 in excess of $50,000. The amount of all sales within the year in excess of $50,000 is to be returned monthly to the assistant assessor. The fractional part of $1,000, however large it may be, can not be assessed, but such fractional parts may be carried forward from month to month, and where they amount to an additional $1,000 the additional tax should be assessed. (T. D.; July 6, 1867.)

**Hotel keepers' liabilities, etc.**

The keeper of a hotel, inn, or tavern should not be required to pay a special tax as a livery-stable keeper on account of furnishing the necessary food for the animals of travelers who are his guests, even though his annual gross receipts do not exceed $1,000, and he is therefore exempt from special tax as a hotel keeper; but if he makes it his business, or any part of his business, to keep, feed, or board horses for any others than such travelers or sojourners, or to keep horses for hire or to let, he should be assessed as a livery-stable keeper. (T. D.; July 6, 1867.)

**Payment of taxes by banks and other corporations.**

The provision of section 120, act of June 30, 1864, requiring the tax upon dividends of banks, trust companies, savings institutions, and insurance companies to be paid to the Commissioner of Internal Revenue was repealed by the act of July 13, 1866. Such taxes are now payable to collectors. (T. D.; July 6, 1867.)

**Coal oil in bond, inspection marking, transportation.**

All coal oil, before removal from the manufactory or refinery, should be marked or branded. In all cases the brands must show the following facts, viz: (1) The kind of oil; (2) the number of gallons; (3) the specific gravity; (4) the name of the distiller; (5) the date of inspection; (6) the name of the inspector; (7) the collection district. No oil will be regarded as properly inspected or branded which does not show a record of all these facts, and any oil placed on the market or found in transitu not bearing the proper inspection marks as defined and described is liable to seizure and should in all cases be seized. (T. D.; July 6, 1867.)

**Exemption—Section 93, act of 1864.**

Manufacturers do not lose the benefit of the exemption in section 93, act of June 30, 1864, by reason of employing apprentices or journeymen, provided they themselves personally engage in the manual labor of their business. (T. D.; July 6, 1867.)

**Monuments—Taxation.**

It is held that monuments of all kinds exceeding $100 in value, except those erected by either public or private expense as tributes in commemoration of the service of Union soldiers who fell in battle, are subject to taxation at the rate of 5 per cent per annum. (T. D.; July 6, 1867.)

**Medicines prepared by physicians—Stamp tax.**

Medicines which if prepared by druggists, dealers, agents, etc., would be subject to stamp tax, should be stamped by a physician when made by him and kept for general sale. Such sales can not be regarded as physicians' prescriptions. (T. D.; July 6, 1867.)

**Peddler's special-tax receipt.**

Every peddler should be prepared to produce a special-tax receipt, in his own name, upon the demand of an internal-revenue officer. It is not sufficient for him to produce a receipt issued to another person, even tho that other person may have been employed by the same party and upon the same wagon used in peddling. (T. D.; July 6, 1867.)

**Income—Resident foreigners.**

According to the internal-revenue law an alien who resides in the United States, and is therefore held liable to a tax on his annual income, gains, profits, and income is entitled to the exemption of $1,000 of that income in the same manner and under the same circumstances as a native-born or as a naturalized citizen. (T. D.; July 6, 1867.)

**Repairs, betterments, improvements, etc.**

For taxable purposes, the amount paid out for usual or ordinary repairs may be deducted from income, but no deduction can be made for any amount paid out for

**Repairs, betterments, improvements, etc.**—Continued.

new buildings, permanent improvements, or betterments made to increase the value of any property or estate. Amounts expended by the purchaser of a building in repairing injuries which occurred thereto prior to his purchase are, so far as he is concerned, betterments made to increase the value of the property and should not be allowed as deductions from his income. (T. D.; July 6, 1867.)

**Manufactures—Increased value.**

A manufacturer of furniture, such as bureaus, may, for taxable purposes, deduct from the entire gross amount of his sales the actual cost of the marble tops and looking-glasses used in their construction, provided a tax has been already paid on the tops and glasses, but no other deduction should be allowed. (T. D.; July 6, 1867.)

**Hotel keepers, etc.—Special tax.**

The keeper of a hotel, an inn, or a tavern is liable to special tax as such if his annual receipts in gross exceed $1,000, regardless of the amount of his profits. (T. D.; July 6, 1867.)

**Liquor dealers, wholesale and retail.**

It is held that every person who sells or offers for sale any distilled spirits, fermented liquors, or wines of any kind whose annual sales, including sales of other merchandise, exceed $25,000 is required to pay a special tax as a wholesale dealer in liquors. It is not sufficient for one who sells in the same shop distilled spirits, etc., to an amount not exceeding $25,000 per annum and other merchandise, in addition, to an amount not exceeding that sum to pay two special taxes, one as retail dealer and the other as retail liquor dealer, if his combined sales of liquors and of other merchandise exceed $25,000 per year. He should be required to pay a special tax of $100 as a wholesale dealer in liquors. (T. D.; July 6, 1867.)

**Broker's receipts—Produce and commercial.**

A dealer may purchase and sell agricultural and farm products at the place of business designated in his special-tax receipt without thereby rendering himself liable as a produce broker, but if a dealer, or any member of a firm of dealers, not having paid special tax as a commercial broker, cattle broker, or peddler travels about the country purchasing such products in the manner of a produce broker he should be taxed as a produce broker if his sales do not exceed $10,000 per annum. If his annual sales exceed that sum, his liability is that of a commercial broker, both as to special tax and the tax of one-twentieth of 1 per cent upon the amount of his sales made elsewhere than at his place of business as a dealer. (T. D.; July 6, 1867.)

**Successions—Conveyances in consideration of marriage.**

It is held that, inasmuch as marriage is a valuable consideration in law, a conveyance of realty made upon such consideration is to be regarded as made upon a valuable and adequate one, and confers upon the grantee no succession within the meaning of the internal-revenue law for purposes of taxation. (T. D.; August 10, 1867.)

**Publisher of newspaper—Special tax**

The amount of money received for advertisements inserted in a newspaper is not to be included in determining the liability of the publisher to a special tax as a manufacturer. (T. D.; August 10, 1867.)

**Wholesale dealers—Persons or firms—Change of firms.**

Section 71, act of June 30, 1864, provides that no person, firm, company, or corporation shall be engaged in, prosecute, or carry on any trade, business, or profession therein mentioned or described until he or they shall have paid a special tax therefor in the manner therein provided. A change of part or of all the members of a firm is a change of the firm. When such a change takes place, the new firm, unless, in accordance with section 78, it consists of lawyers, conveyancers, claim agents,

**Wholesale dealers—Persons or firms—Change of firms**—Continued.

patent agents, physicians, surgeons, dentists, cattle brokers, or peddlers, should pay a special tax from the first day of the month in which it first engages in, prosecutes, or carries on any trade, business, or profession for which a special tax is required, regardless of the fact that the new firm is composed in part of members of an old one which has already paid the special tax imposed upon it. (T. D.; August 10, 1867.)

**Definition of repairs—New manufactures.**

Repairs of articles of all kinds are exempt from tax as manufactures. However great, repairs which do not destroy the identity of the article or thing repaired are not taxable; but an article or thing substantially new is to be taxed as a new manufacture, altho it may contain some parts or pieces that have been more or less used in other articles. (T. D.; August 10, 1867.)

**Reassessment of retail liquor dealers.**

The special tax of a retail dealer is at the rate of $10 per annum; that of a retail liquor dealer at the rate of $25 per annum. All special taxes become due on the 1st day of May in each year, or on commencing any trade, business, or profession upon which such tax is by law imposed. In the former case the tax is to be reckoned for one year, and in the latter proportionately for that part of the year from the first of the month in which liability to a special tax first began to the 1st of May following, as provided by section 74, act of June 30, 1864. When a retail dealer changes his business to that of a retail liquor dealer, he should be reassessed in an amount equal to the difference between the tax imposed upon a retail liquor dealer for the remainder of the special-tax year and that imposed upon a retail dealer for the same time. (T. D.; August 17, 1867.)

**Express carriers—Liability to special tax.**

A person doing an express business is not liable to special tax as express carrier or agent unless his gross receipts from such business exceed $1,000 per annum, but he is subject to a tax of 3 per cent upon all his gross receipts from such business, regardless of their amount. (T. D.; August 17, 1867.)

**Transportation—Gross receipts.**

Money paid by passengers on transportation lines for food can not be regarded as constituting a part of the gross receipts of a steamboat or other vessel for their transportation. If separate and distinct sums are paid, one for transportation and the other for food, the amounts received for the latter need not be returned for taxation under section 103, act of June 30, 1864, An excessive charge for food, however, and a correspondingly low charge for transportation should be regarded as attempted fraud upon the revenue. If the amount of passage money covers both transportation and food, the whole should be returned, the amount expended for food should then be allowed as a deduction, and the tax of 2½ per cent should be assessed upon the balance. (T. D.; August 17, 1867.)

**Manufactures—Insignia, regalia, etc.**

The regalias or trappings of Masons, Odd Fellows, or other similar organizations are not clothing or articles of dress within the meaning of the internal-revenue act of June 30, 1864, but are to be regarded merely as ornamental articles for a particular use and taxable at the rate of 5 per cent ad valorem from and after March 1, 1867, as a manufacture not provided for otherwise. (T. D.; August 17, 1867.)

**Successions—Legacies from real estate.**

Section 138 of the internal-revenue act provides that the interest of any successor arising from the sale of real estate, under any trust, shall be deemed to be a succession chargeable with taxation under said act, and that said tax shall be paid by

**Successions—Legacies from real estate—Continued.**

the trustee, executor, or other person having control of the funds. The money derived from such sale shall be deemed a succession, and the executor shall he required to pay thereon a succession tax. (T. D.; August 24, 1867.)

**Income tax—Wife of alien residing abroad.**

For purposes of taxation, the wife of an alien is to be regarded as an alien under the internal-revenue laws, tho she was a citizen prior to her marriage. If she resides abroad, the profits and income arising from stocks, etc., held for her by a trustee in this country need not be returned for taxation. If she resides here, she is liable to the income tax imposed upon every person residing in the United States. (T. D.; August 31, 1867.)

**Special tax—Estimates of rental value.**

For purposes of special tax assessment upon the keeper of a hotel, inn, or tavern, the yearly rental is to be "fixt and established by the assistant assessor of the proper assessment district at its proper value, but if rented, at not less than the actual rent agreed on by the parties." If the assistant assessor is of the opinion that the yearly rental value of the premises occupied for hotel, inn, or tavern purposes exceeds the actual rent agreed on by the parties, he should assess the tax according to his estimate of the value. (T. D.; August 31, 1867.)

**Turpentine manufacturers—Tax liability.**

Under the existing revenue law, spirits of turpentine is classed as a manufacture subject to the same regulations as other manufactures. A manufacturer of turpentine, like any other manufacturer, is required to make monthly returns of the quantity manufactured. He is also required to return each month the quantity sold or consumed, or used, or removed for consumption, or for delivery to others than his agents, and to pay the tax on the same in the district where it is manufactured. (T. D.; August 31, 1867.)

**State banks—Circulation tax.**

When, upon the failure of a bank, association, corporation, company, or person engaged in the business of banking under a State law, the affairs of the bank, association, etc., are put in the hands of a receiver, the receiver represents the bank, association, corporation, company, or person, and, for purposes of taxation, should make monthly returns of outstanding circulation. (T. D.; August 31, 1867.)

**Bitters vended as beverages.**

No special distinction has ever been made by the Bureau of Internal Revenue holding Hostetter's and Drake's Plantation Bitters only as alcoholic beverages, and relieving the vendors of other bitters from liability to special tax as dealers in liquors. The ruling of the office is that "those who sell Drake's Plantation, Hostetter's, or any similar bitters or alcoholic compounds which may be used as beverages, should be required to pay the special tax as dealers in liquors, either wholesale or retail," according to the amount of sales annually of such liquors and other merchandise. (T. D.; August 31, 1867.)

**Broker's sales—Soliciting orders.**

If a commercial broker solicits an order and it is filled, it is held that there is a sale which should be included in his monthly return of sales, for purposes of taxation. (T. D.; August 31, 1867.)

**Informers' shares—Rule relating thereto.**

In the case of the United States *v.* One Still Boiler, etc., found at Fifty-sixth street, near Seventh avenue, New York City, Judge Blatchford, sitting in the United States district court for the southern district of New York, after setting forth the law as fixt by the ninth section, act of July 13, 1866, relative to informers' shares and the regulations of the Secretary of the Treasury made in pursuance of that section,

**Informers' shares—Rule relating thereto**—Continued.

*Holds*, that the statute contemplates that the general regulations shall assign to an informer one and the same share of a fine, penalty, or forfeiture, whether it is recovered by suit, or whether a sum is paid in lieu of it by way of compromise—the Secretary himself having so interpreted the law. The shares he prescribes are for shares of all proceeds and moneys whether recovered by judgment or paid without suit or before judgment, and are applicable to all fines, all penalties, and all forfeitures received under the internal-revenue laws. (T. D.; August 31, 1867.)

**Distillers' tax.**

A person who distils brandy from pure grape wine, or from pure apple cider is to be taxed the same, in all respects, as tho he distilled it directly from grapes or apples. (T. D.; September 7, 1867.)

**Manufacturers' sales—Freight deductions.**

The provision of the internal-revenue law allowing manufacturers to deduct, for taxable purposes, "freight from the place of manufacture to the place of delivery" was repealed by the act of July 13, 1866; under the law as it now stands no such reduction should be allowed. (T. D.; September 7, 1867.)

**Manufacturers' time sales.**

Manufacturers who sell their products on time, without interest, should be allowed to return their sales at the present worth of the sum for which they sell. (T. D.; September 7, 1867.)

**Shares of informers.**

Under date of September 2, 1867, the Secretary of the Treasury, supplementing the regulations relative to shares of informers as contained in the circular of instructions issued under authority of the internal-revenue law, August 14, 1866, promulgated an amendatory regulation to the effect that the shares allotted to informers, shall, in all cases, be subject to a proportionate deduction for costs and charges, properly payable from the fine, penalty, or forfeiture; and no such share shall be paid until such deduction is made. (T. D.; September 7, 1867.)

**Printers and publishers—Their tax liabilities.**

A printer is liable to the special tax as a manufacturer if the articles he prints exceed in value, when printed, $1,000 per annum. A printer is understood to be any person or firm whose business it is to take impressions from types or engraved surfaces upon paper or other material. In determining the liability of printers to special tax as manufacturers, the value of the articles of merchandise produced by them should alone be taken into consideration. Amounts received for inserting advertisements in newspapers are not, therefore, to be so included. (T. D.; September 21, 1867.)

**Weiss beer—Liabilities of manufacturers.**

Weiss beer is not included in the provisions of the act of March 2, 1867, exempting "root beer and other small beer." It belongs to the class of fermented and is governed by the provisions of law relating to that subject. The producer should therefore be required to pay the special tax as a brewer and a tax of $1 per barrel on the beer. (T. D.; September 21, 1867.)

**Distilled spirits—Inspection and branding.**

It is held that when the contents of packages of tax-paid spirits are changed in character by mixing or reduction of proof, they must be again inspected and branded in the usual manner. It is optional whether the word "rectified" shall be used in branding, there being no law or regulation requiring it. The name and address of the person or firm doing business as rectifiers or wholesale dealers must, however, appear on each package. (T. D.; September 21, 1867.)

**Liens on realty for whisky tax.**

Prior to the act of March 2, 1867, the tax on distilled spirits was a lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the interest of the distiller in the lot or tract of land whereon the distillery is located. In the act of March 2, 1867, the words "the interest of said distiller in" were left out; and in leaving them out Congress evidently intended to make the tax on distilled spirits a lien "on the lot or tract of land" on which the distillery is situated, whether the owner of the land was or was not liable for the payment of the tax. (T. D.; September 21, 1867.)

**Insurance policies and contracts—Stamp tax.**

When a contract of insurance is entered in a register instead of issuing, whether it is a new insurance or a reinsurance, or the renewal of a policy, each entry requires a stamp at the usual rate, based on the premium. It would not be legal or sufficient to estimate the tax on the sum total, as tho it were a single policy. (T. D.; September 28, 1867.)

**Coupon bonds of cities and towns.**

Bonds issued by cities or towns to aid in the construction of railroads and to purchase stock therein are not considered as issued by municipal officers "in the exercise only of functions strictly belonging to them in their ordinary governmental and municipal capacity." They are held liable, therefore, to stamp tax at the same rate as promissory notes, being 5 cents for every $100 or fractional part thereof. The coupons are a part of the bond and do not require additional stamps. (T. D.; September 28, 1867.)

**Insurance policies, perfect and imperfect.**

When a policy of insurance has been issued, properly stamped but incorrectly written, and it is afterwards surrendered and another substituted solely to cure the defect in the first, the new policy requires no stamp. In such case the second policy should contain a recital of the facts and show the reasons for its execution. (T. D.; September 28, 1867.)

**Steamboat marine papers—Exemptions.**

Certificates issued by steamboat inspectors are exempt from stamp tax under the amendment to section 154, act of June 30, 1864, which exempts all official papers issued by officers of the Federal Government. The oaths of masters and owners are exempt under the act of March 2, 1867, which relieves all affidavits from stamp tax. The returns of masters' marine hospitals are also exempt. The two forms of bonds given by masters of steamboats require a 25-cent stamp each, as bonds not otherwise charged in the stamp schedule. (T. D.; September 28, 1867.)

**Receipts taken by executors and administrators.**

Receipts taken by executors and administrators should be stamped as in other cases. Inventories of the property of deceased persons returned for record or otherwise should be stamped as "appraisements of value" at the same rate as agreements. (T. D.; September 28, 1867.)

**Passenger tickets—Basis of stamp tax.**

Stamps placed on the passage tickets of passengers leaving for foreign ports should be based upon the currency value of the tickets, and not upon their gold value. (T. D.; September 28, 1867.)

**Manufactures under $3,000 per year.**

When a manufacturer makes both exempted and taxable articles, the taxable articles only are to be taken into account in determining his liability to taxation. (T. D.; September 28, 1867.)

**Manufactures—Tax on increased value.**

Corrugated sheet iron is not taxable as a manufacture under section 96, act of June 30, 1864, if the value is not increased by corrugation more than 5 per cent; nor can corrugated domestic sheet iron be taxed on its increased value under section 95 of said act, inasmuch as there is no excise tax upon sheet iron; and it is only upon the increased value of "manufactured articles, goods, wares, or merchandise on which an excise or impost duty has been paid, and which are especially provided for," that the tax is imposed. (T. D.; October 12, 1867.)

**Certificate of notice—Protest.**

The certificate of notice to parties, usually appended to a certificate of protest, forms no part of the protest itself, and requires additional stamps to the value of 5 cents. (T. D.; October 12, 1867.)

**Furnaces—Taxable value.**

Furnaces finished and ready to be put up are taxable under the general provisions of section 96, act of June 30, 1864, at the rate of 5 per cent upon their entire value; but the actual expense of setting them up for use forms no part of their taxable value. (T. D.; October 12, 1867.)

**Agents—Gift enterprise—Special tax.**

The special tax paid by the proprietor of a gift enterprise covers the sale of tickets therein by his duly authorized agents anywhere in the United States. Such agents should be able at all times to show that the special tax has been paid by their principal. (T. D.; October 12, 1867.)

**Mortgages or deeds—Powers of sale, etc.**

The ordinary power of sale inserted in a mortgage or in a trust deed given as security for the payment of money is regarded as part of the mortgage or deed, and therefore requires no additional stamp. Extraordinary powers and agreements should be separately stamped. (T. D.; October 12, 1867.)

**Income—Building expense of lessee.**

Where land is leased for a term of years under a contract that the lessee shall erect a building thereon, the title to which, subject to the use of the lessee during the term of the lease, immediately vests in the lessor the expense of erecting the building is in the nature of rent, and for purposes of taxation is returnable as such in the income return of the lessor. (T. D.; October 12, 1867.)

**Sales of real estate by collectors.**

The provisions of section 30, act of June 30, 1864, as amended by section 9, act of July 13, 1866, govern the proceedings of collectors in selling real estate for taxes; but when a deed is made (after the time for the redemption of the property has elapsed) it must contain a recital of the facts set forth in the certificate and in form be in "accordance with the laws of the State in which the real estate is situate on the subject of sales of real estate under execution." (T. D.; October 19, 1867.)

**Blackberry brandy—Catawba wines.**

Parties who make "blackberry brandy" and "old Catawba wine" by mixing distilled spirits with blackberry wine in one instance and Catawba wine in the other are rectifiers, but the liquor itself is not subject to tax, not being embraced in any provision of the law imposing tax, excepting those relating to the original spirits before mixture. (T. D.; October 19, 1867.)

**Insurance companies—Mutual life liabilities.**

The law provides that the portion of the premiums returned by mutual life insurance companies to their policy holders shall not be considered as dividends unless the company pays to the policyholder more than the premium received from him. No tax is imposed under section 120, act of June 30, 1864. Where any mutual life

**Insurance companies—Mutual life liabilities**—Continued.

insurance company has a capital stock and the profits of the company are divided between the stockholders and the policyholders, the amount paid to the policyholders is exempt from tax under section 120, provided it falls within the rule here stated. (T. D.; October 19, 1867.)

**Barrels and casks of metal.**

The act of March 22, 1867, exempts barrels and casks and in the same connection enumerates a variety of articles, all of which, with the exception of match boxes, must be made of wood to be included in the exemption. Barrels and casks made of material other than wood are taxable. (T. D.; October 19, 1867.)

**Spirits forfeited—The disposal of same.**

Section 27, act of March 2, 1867, providing that forfeited spirits shall not be sold for a price less than the tax, has reference to spirits which have been "forfeited to the Government in accordance with law." When so forfeited they belong absolutely to the Government and are entirely at its disposal, whether they are sold or destroyed being of no concern to anyone but the Government. But in sales under section 63, act of July 13, 1866, no forfeiture has been declared and the ownership of the property has not been settled. Any person claiming the property who had no notice of the seizure may, within one year, make his claim to the Secretary of the Treasury, and, upon satisfactory evidence that the property was not liable to forfeiture, he will be entitled to a restoration of the proceeds of the sale. The provisions of this section could not be enforced if the property were destroyed, because there would be no "proceeds." (T. D.; October 19, 1867.)

**Legacies, advancements, successions.**

Under the internal-revenue act, an advancement made by a father to his child should be taxed as a legacy upon the death of the father, if it constitutes a part of the assets of the estate liable for the debts in case the estate should prove insolvent, whether it actually prove so or not. (T. D.; October 5, 1867.)

**Succession tax on mortgaged property.**

In assessing the succession tax upon a tract of land on which there is a mortgage, no allowance should be made, under the internal-revenue law, on account of the mortgage, if there be an unquestionably good defense to it, such as the statute of limitations. The waiving of his own legal rights by the successor does not affect the rights of the United States. (T. D.; October 5, 1867.)

**Proprietary and other articles—Stamp tax.**

In response to the inquiry whether patent medicines manufactured prior to the enactment of the internal-revenue law are liable to stamp tax, it is held that, under section 169, act of June 30, 1864, whoever offers or exposes for sale articles enumerated in Schedule C of said act is to be regarded as a manufacturer, and, whether the articles are of foreign or domestic manufacture, he incurs the manufacturer's liabilities, the first of which is the affixing of proper stamps, and the second, if he fails to affix such stamps, denoting the proper tax, imposes a penalty of $50 for every omission. This penalty is imposed under section 165—first, if he makes, prepares, and sells; and, second, if he removes for sale or consumption. Either of these conditions imposes the liability. The time of manufacture can have nothing to do with the question of liability. The only questions regarding such articles relate, first, to the specifications named in the schedule liable to stamps, and, second, as to whether they have been sold, removed, offered, or exposed for sale, whether prior or subsequent to the passage of the law. If so, the person liable must affix the proper stamps denoting the payment of the tax or incur the penalty of the law. (T. D.; October 5, 1867.)

**Gaging and branding spirits.**

Section 43, act of July 13, 1866, provides that "all spirits after being removed from the original package in which they were inspected and gaged into other packages for purposes of rectification, redistillation, or change of proof shall again be inspected, gaged, and properly branded." The packages in which spirits are first placed by the distiller are the original packages until there is a change of package, a reinspection, and a rebranding. If this change is made before the tax is paid the second package becomes the "original package," but if the tax is paid while the spirits are in the first package such package is the "original" package. Only one inspection and one branding are required after a change from the original package, and these are required only where the spirits are removed from such package "for purposes of rectification, redistillation, or change of proof." (T. D.; October 19, 1867.)

**Returns and payment of tax—Traveling exhibitions.**

Construing section 115, act of June 30, 1864, relative to the returns and payments of tax on circuses and other traveling exhibitions, it is held that when any person liable to the tax therein prescribed presents himself in a revenue district he shall be immediately called upon by the collector for evidence that the tax on his gross receipts has been paid in the district of his last exhibition, or produce a permit from the Commissioner of Internal Revenue to pay in some one given district as the law provides. Failure to produce either is prima facie evidence of an "attempt knowingly to evade the payment" for which, under section 109, act of June 30, 1864, the penalty is $1,000, and the collector should act accordingly. (T. D.; October 19, 1867.)

**Peddlers' special tax.**

The expression "stoves and hollow ware," used in the second proviso of paragraph 32, section 79, act of June 30, 1864, is construed by the Bureau of Internal Revenue as not including earthernware and, therefore, as not exempting peddlers of earthernware from tax as "peddlers," whether manufacturers or agents of the same. (T. D.; November 2, 1867.)

**Spirits distilled—Gaging and marking.**

Section 43, act of July 13, 1866, provides that the casks and packages of distilled spirits must be marked with the name of the inspector, the district, and the date of inspection, and there must be cut upon the bung stave in figures the actual number of wine gallons contained and the proof or strength of the liquor. Section 26 requires that every rectifier must mark with a stencil plate on each package of 5 gallons or more of distilled spirits sold by him his name and place of business. The requirements of section 43 operate only in cases where spirits are removed from original packages, and the word "original" is to be considered as referring to those packages which are branded in a bonded warehouse and not afterwards. The "tax-paid" packages are to be considered as original. (T. D.; November 2, 1867.)

**Mileage of collector in making distraint.**

Where the collector is entitled to the mileage or travel fee provided in Circular No. 58, in cases where distraint for nonpayment of taxes may be legally resorted to, but where the officer collects the taxes in person, without actually seizing property, his right to such fee for actual travel in going to make a distraint is not defeated by the manner of collection, provided such collection or payment is made after the officer has gone to make the distraint. (T. D.; November 2, 1867.)

**Fraud in returns—Examination and assessment.**

The limitation of fifteen months as to the entry on a monthly or special list of the names and amounts as to which it is ascertained that there has been a false or fraudulent return or statement, etc., as contained in section 20, act of June 30, 1864, does not affect the enforcement of the penalty provided by section 15 of that act

**Fraud in returns—Examination and assessment**—Continued.

for the offense of delivering or disclosing to any assessor or assistant assessor "any false or fraudulent list." The last cited section (15) provides a penalty of fine or imprisonment for the offense, while section 20 provides for the proper assessment of the tax. (T. D.; November 2, 1867.)

**Failure to assess for fraud, etc.**

The failure of the assessor to assess the 100 per cent penalty for false or fraudulent returns under sections 14 or 118 of the act of June 30, 1864, does not relieve the guilty parties from prosecution and punishment under section 15 of that act. (T. D.; November 2, 1867.)

**Spirits at less than $2 per gallon.**

Selling or offering to sell distilled spirits at less than "two dollars per wine gallon" does not raise any presumption in law that the tax has not been paid, because the spirits may have been rectified and diluted. (T. D.; November 2, 1867.)

**Bondholders' obligation to pay tax on interest.**

In the case of Samuel Haight, a citizen of New York, *v.* The Pittsburgh, Fort Wayne and Chicago Railway Co., citizens of Pennsylvania, Judge McCandless, United States district court for the western district of Pennsylvania, held that the internal-revenue tax of 5 per cent imposed on the interest paid on the bonds of railroad corporations falls upon the owner and not the obligor, notwithstanding the bonds may be secured by mortgage on real estate. The coupons on which the suit was instituted were held to be the annual profit on money safely invested. (T. D.; November 2, 1867.)

**Certificate of county clerk to notarial powers.**

A county clerk's certificate respecting the authority of a person to administer oaths, etc., issued to be used by a private party for his own benefit is not regarded as within section 154, act of June 30, 1864, which exempts instruments issued by the county "in the exercise of functions strictly belonging to it in its ordinary governmental capacity." (T. D.; November 9, 1867.)

**Partition deeds—Stamp tax.**

Partition deeds between tenants in common need not be stamped as agreements, unless money or other valuable consideration is paid for equality of partition; but deeds between joint tenants should be stamped as conveyances of realty. In the first case, each tenant owns the whole of a part and there is no sale, but a marking out or defining of the part belonging to each; in the latter case, each owns a part of the whole and in what is usually denominated a division in such case there is an exchange of lands. An exchange does not differ materially from bargain and sale. (T. D.; November 9, 1867.)

**Foreign promissory note negotiable—Stamp tax.**

A negotiable promissory note made, signed, and issued in a foreign country and made payable there may be negotiated by indorsement in this country without liability to any stamp tax under the internal-revenue law. (T. D.; November 9, 1867.)

**Receipts on contract—Indorsement.**

When a person who has entered into a contract to convey certain lands upon payment of a certain sum makes a written indorsement of a partial payment on the copy of the contract held by the party making the payment, and signs it, he should affix a 2-cent stamp if the amount received exceeds $20. (T. D.; November 9, 1867.)

**Chemists producing alcoholic liquors.**

The use of a still by chemists to produce alcoholic spirits makes them liable to tax as distillers. (T. D.; November 9, 1867.)

**Manufactures—Babbitt metal, etc.**

"Babbitt metal," "tinner's solder," and "brass solder" are liable to a tax of 5 per cent ad valorem under the general provisions of section 94, act of June 30, 1864, as amended by the act of July 13, 1866, as a manufacture not provided for otherwise. (T. D.; November 9, 1867.)

**Successions—Parties taking under trusts, etc.**

Persons who become entitled to real estate, or to moneys arising from the sale of real estate under a trust, are successors, under section 138, act of June 30, 1864. In the latter case, the tax is payable by the person who has control of the funds. When using the general expression "any trust for the sale thereof," in section 138, the framers of the law evidently contemplated sales by order of the court as well as in pursuance of a testator's will. This accords with the general provisions of the law imposing the succession tax, which place the tax on successions without reference to whether the real estate past from a person who died testate or intestate. (T. D.; November 9, 1867.)

**Forfeiture of spirits in bond, illegal.**

It is held, under the act of June 30, 1864, that the forfeiture of spirits which have been properly entered in bond would be not only contrary to the best interests of the revenue, but contrary to the true intent of the statute. There is only one section in the statute where spirits in bond are referred to specifically as subject to forfeiture, and the language is that the person who shall, in the manner indicated, violate the law shall forfeit all property in such spirits. The forfeiture of spirits may be enforced for failure to pay tax prior to putting the same in bond; but where the spirits are already in bond there can be no such ground of forfeiture. See sections 23 and 24, act of July, 1866. (T. D.; November 9, 1867.)

**Thread taxable—Bleaching, finishing, brown thread.**

The act of July 13, 1866, exempts from tax yarn and warp, and the act of March 2, 1867, exempts twine. Thread in the brown is used as warp to some extent. Manufacturers who bleach or otherwise finish thread should pay tax on its entire value, but the tax should be assessed on it in the brown. (T. D.; November 23, 1867.)

**Succession and legacy—American legatees and foreign testators.**

It is held that, unless the testator or intestate who dies in a foreign land has a residence in the United States, his legatees in this country are not liable to the legacy tax. But persons succeeding to real estate situate in the United States are liable to the succession tax, without reference to the devisor or predecessor. (T. D.; November 23, 1867.)

**Instruments for transfer of land.**

When the property of a deceased person is sold under a decree of court for the purpose of dividing the proceeds among the heirs, the deed, proces verbal, or other instrument whereby the transfer is made, should be stamped at the usual rate applicable to conveyances of realty when sold. (T. D.; November 23, 1867.)

**Deed for inadequate consideration—Stamp tax.**

When a conveyance of realty is made upon an actual valuable consideration which is manifestly inadequate, the deed should be stamped according to the amount of valuable consideration and a succession tax (unless the successor be the wife of the predecessor) should be assessed upon the value of the land conveyed, less such consideration. (T. D.; November 23, 1867.)

**Cancellation of stamp on promissory note.**

There is no stamp tax due on a promissory note until the note itself be issued. A stamp is to be canceled when it is "attached or used," as the law provides, and altho a stamp may be affixt when a note is signed, it can not be said to be "used" until the note is issued. (T. D.; November 23, 1867.)

**Receipts for money or checks.**

A receipt for a bank check is a receipt for money within the terms of the internal-revenue act of June 30, 1864, and if for a sum exceeding $20 it requires a 2-cent stamp. It is not relieved by the stamp on the check. (T. D.; November 23, 1867.)

**Tobacco tax—Liabilities of manufacturers.**

The internal-revenue law, by special provision, requires that the tax on manufactured tobacco, snuff, and cigars shall be assessed upon the sale or removal of the same from the place of manufacture, unless removed to a bonded warehouse; but, when once transferred to a bonded warehouse, it can not be withdrawn without payment of the tax, except for transfer to another bonded warehouse, or when removed for export to a foreign land. The law further requires that all manufactured, before removal or consumption, shall be inspected, marked, and stamped, and any tobacco that shall be sold without inspection marks or stamps affixt shall be subject to forfeiture, and the owned shall be liable to a penalty of $50 for every offense. (T. D.; November 23, 1867.),

**Passage tickets—Stamp tax.**

The amount of stamp tax payable on a foreign passage ticket sold for gold coin is controlled not by the relative value, but by the number of gold dollars received for it, and, for the purpose of this tax, the difference between the market value of a gold dollar and that of a paper dollar is to be disregarded. If, however, such a ticket is sold for paper currency, it must be stamped according to the number of paper dollars received. (T. D.; November 30, 1867.)

**House painters—Special tax.**

It is held that house painters are not liable to special tax as manufacturers in respect to the painting done by them, but if they furnish paints or other articles used by them, charging therefor, to an amount exceeding $1,000 per annum, they are liable as dealers. (T. D.; November 30, 1867.)

**Spirits distilled—Real estate used in illicit distillation.**

Section 32, act of July 13, 1866, provides that the tax on distilled liquors should be a "lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the interest of said distiller in the lot or tract of land whereon the said distillery is situated." Section 14, act of March 2, 1867, reenacts this provision, omitting the words "the interest of said distiller in," and adding after the word "situated" the words "together with any building thereon." The intention of this change in the statute is to make the tax on distilled spirits a lien "on the lot or tract of land whereon the distillery is situated," whether the distiller has or has not an interest therein. (T. D.; December 7, 1867.)

**Policies of health insurance companies.**

The internal-revenue law imposes no stamp tax on the policies of health insurance companies, nor is there a tax on the gross receipts of such companies. (T. D.; December 7, 1867.)

**Claims of drawback—Collector's certificate.**

Section 171, act of June 30, 1864, as amended by subsequent acts, provides that "no allowance or drawback shall be made or had for any amount claimed or due less than ten dollars." It is not essential to the claim that the goods shipped should all be of the same character, or that they should all be the product of one manufacturer. It is sufficient, if they are all shipped by the same person upon the same voyage of the same vessel. Certificates showing the payment of taxes to an amount less than $10 should be issued by collectors, when requested, on the proper form. (T. D.; December 7, 1867.)

**Real estate seized for taxes.**

Real estate seized for the payment of internal-revenue taxes must be sold within 5 miles of where it is located, unless the Commissioner of Internal Revenue, by special order in each case, permits a sale to be made at a greater distance. (T. D.; December 7, 1867.)

**Real estate sale at minimum price—Government purchase.**

In selling real estate for taxes, under section 30, act of June 30, 1864, as amended by section 9, act of June 13, 1866, the officer making the sale shall offer the property at a minimum price, and if the sum for which it is so offered be not bid, he shall declare it purchased for the United States. The "minimum price" so fixed does not include the tax, but simply the expense of making the levy and the charges and fees for making the sale. (T. D.; December 7, 1867.)

**Lien for taxes—Prior liens.**

Internal-revenue taxes do not become a lien on the real estate of the taxpayer until they are actually due, and when they do become a lien such lien does not take priority of preexisting liens. (T. D.; December 7, 1867.)

**Mortgage less than $100—Stamp tax on bond or note.**

A mortgage securing $100 or less is not subject to stamp tax, but the liability of the bond or note, which is evidence of the amount secured, is the same as tho there were no mortgage. The necessary stamp may, however, be affixt to either the bond or note, or to the mortgage, in conformity to the provisions of section 160, act of June 30, 1864. (T. D.; December 14, 1867.)

**Bond of treasurer of Odd Fellows or of Masons.**

The position of treasurer in the organization of Odd Fellows, or of Free Masons, or in any other similar organization, is not held to be an office within the meaning of the internal-revenue law. Bonds given by persons holding such positions are not, therefore, subject to a $1 stamp each as bonds for "the due execution or performance of the duties of an office," but to a 25-cent stamp only, as "bonds not otherwise charged," in Schedule B of the revenue law. (T. D.; December 14, 1867.)

**Importer selling merchandise—Special tax.**

An importer, as such, is not liable to any special tax, but if he makes it his business, or any part of his business, to sell the goods imported by him, from the wharf or from any fixt place of business, he becomes liable as a dealer, or as a liquor dealer, wholesale or retail, according to the character and amount of the merchandise sold by him. (T. D.; December 14, 1867.)

**Returns by assignee of bankrupt manufacturer.**

When a manufacturer makes an assignment for the benefit of his creditors, any person who, under the authority of the assignee, continues the business of manufacturing becomes a manufacturer within the meaning of the internal-revenue laws and should make returns of all goods made under his superintendence and direction. If he neglects or refuses to make such returns the assistant assessor should assume and estimate the value of his manufactures or products, and upon the assumed value should assess the taxes and add 50 per cent thereto. (T. D.; December 21, 1867.)

**Life insurance—New stamp.**

The word "life" as used under the head of insurance in Schedule B, act of June 30, 1864, is to be construed as relating to human life. When a material change, such as a change of the property insured or in the amount of insurance, is made in an insurance policy by erasures, interlining, or otherwise, after it has been issued, the change of policy is held to be a new contract of insurance, and requires, therefore, a new stamp. (T. D.; December 21, 1867.)

**Conveyance by wife to trustee.**

When a wife conveys real property without valuable consideration to her husband thru the intervention of a trustee, neither her deed to the trustee nor the trustee's deed to the husband need be stamped as a conveyance of "realty sold," but each deed should be stamped as a contract or an agreement. (T. D.; December 21, 1867.)

**Manufacturer's assignment to creditors.**

When a manufacturer makes an assignment for the benefit of his creditors, he becomes liable to a tax upon all the taxable manufactures that pass by the assignment. The passage into the hands of the assignees is the fulfilment of a condition which renders the goods liable to taxation. Under the act of June 30, 1864, the tax on manufactures became a "lien from the day prescribed by the Commissioner for their payment * * * in favor of the United States" upon the real and personal property of the manufacturer, as provided by section 83 of said act. By the act of July 13, 1866, such a tax is made "due and payable on or before the last day of each and every month," in accordance with section 11 of the act, and is a lien in favor of the United States from the time it became due and payable until paid with interest, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to the manufacturer. (T. D.; December 21. 1867.)

**Lien upon manufactured goods.**

The tax on a manufactured article is a lien upon all the property belonging to the manufacturer, either at or subsequent to the time when it becomes due or payable. There is no lien on a manufactured article for the tax assessed upon itself, but it may be subject to a lien for taxes due and payable from the manufacturer on account of other goods produced by him. (T. D.; December 21, 1867.)

**Taxes due from insolvents or bankrupts.**

Section 5, act of March 3, 1797, provides that where any person indebted to the United States shall become insolvent, the debt due the United States shall be first satisfied and that the priority thereby established shall be deemed to extend to cases in which a debtor, not having sufficient property to pay all his debts, shall make a voluntary assignment. When, therefore, a manufacturer makes an assignment of his manufactures for the benefit of his creditors, the tax upon them accrues simultaneously with the assignment and should be assessed at their market value at the time of the assignment and returned to the revenue collector, who should demand payment of the same by the assignees as a preferred claim. (T. D.; December 21, 1867.)

**Powers of attorney, proxy, etc.**

A power of attorney or proxy for voting at any election of officers in any incorporated company or society, except religious, charitable, or literary societies or public cemeteries, is liable to a stamp tax of 10 cents. When several stockholders, who are the owners of distinct shares, sign a power of attorney, each authorizing a person to act for him, the instrument is to be regarded as the separate power of each and should be stamped accordingly. If the power relates to general business and not merely to the election of officers, it should be stamped at the rate of 50 cents for each signer, whether it is to be used at the elections of the societies named or not. T. D.; December 28, 1867.)

**Bonds of tobacconist—Renewal.**

The latter part of section 87, act of June 30, 1864, so far modifies the former part of that section as to vest in the revenue collector of each district a discretion to require a tobacconist to give a new bond in an increased amount, and, when a new bond is required, the number of machines in use is not conclusive as to the amount for which the new bond is to be given. (T. D.; December 28, 1867.)

**Diaries exempt—Pocketbooks taxable.**

The act of July 13, 1866, exempts from tax "books, maps, charts, and all printed matter and bookbinding." Under this provision diaries and memorandum books are exempt from tax, but pocketbooks, intended as receptacles for money and valuable papers, are not regarded as books within the meaning of the revenue law, and are liable to an ad valorm tax of 5 per cent. (T. D.; December 28, 1867.)

**Penalty for failure to stamp instrument.**

The payment of a penalty for the purpose of having an instrument properly stamped by a collector relieves no one from his liability to indictment or other legal proceeding for issuing it without the necessary stamp with intent to defraud the revenue, nor does the payment of a penalty imposed by the court for wilful neglect to stamp an instrument make the instrument valid. The two penalties are entirely distinct—the payment of the one is voluntary and that of the other is compulsory, and the payment of one does not relieve from the necessity or liability for the payment of the other. (T. D.; December 28, 1867.)

**Remission of penalty.**

The Commissioner of Internal Revenue has no authority to remit a penalty for failure to stamp an instrument, this power being vested in the collector or in the deputy acting as collector, as provided by sections 39 and 40, act of June 30, 1864. The collector's authority to make the remission ceases at the expiration of twelve calendar months from the issue of the instrument, and the payment of the penalty then becomes an absolute condition precedent to affixing the stamp, it being as essential to the validity of the instrument as the stamp itself. (T. D.; December 28, 1867.)

**Ownership of goods in bond.**

Relative to the issue of certificates showing the deposit of merchandise in bonded warehouse, it is held that merchandise stored in a bonded warehouse is in the joint custody of the warehouseman and the collector or storekeeper. The responsibility for the property of the depositor is and must be left entirely with warehouseman, the Government assuming no responsibility in the matter. The business of the storekeeper is simply to see that the merchandise does not leave the warehouse until the tax is paid or secured, and it is not necessary even that he should inquire into the question of ownership. (T. D.; January 4, 1868.)

**Receipts of warehouseman.**

If the holders of bonded merchandise deposit the same in the custody of a responsible warehouseman, their receipts will be all that will be required by any purchaser, and it will be unwise as well as dangerous for the collector to issue his certificate, and thus perhaps bolster up the credit of irresponsible warehousemen. (T. D.; January 4, 1868.)

**Agreement to convey real estate.**

A written agreement to sell and convey real estate upon the fulfilment of specified conditions should be stamped at the rate of 5 cents for each sheet or piece of paper upon which it is written, but if the instrument contains the promise of one of the parties signing to pay a certain amount of money on demand or at a time designated, it should be stamped at the same rate as a promissory note. (T. D.; January 11, 1868.)

**Income tax on prize money.**

The tax of 5 per cent should be withheld from all payments made on account of prize money without regard to the time when the captures were made. (T. D.; January 11, 1868.)

**Successions—Alienation of a successor.**

Where a succession has been alienated as contemplated in section 135, act of June 30, 1864, the law authorizes the assessment of the tax against none other than the successor or his representative, but the tax remains a first charge upon the interest alienated by the successor for five years from the time when it became due and payable unless sooner paid. (T. D.; January 25, 1868.)

**Certificates of tax payment.**

The Commissioner issues to collectors special instructions, setting forth that the frequency with which holders of spirits are required to prove that the taxes thereon have been properly paid renders it necessary that the merchandise on which taxes are paid shall be particularly described by collectors in their receipts. For this purpose a form of certificate of payment is prepared (Form 31), which is forwarded to all collectors in response to requisitions. (T. D.; January 25, 1868.)

**Rectifiers—Obligations as to keeping books, etc.**

In a case of libel for forfeiture of a rectifying establishment at Amboy, Ill., for neglecting to keep a book as required by section 26, act of July 13, 1866, Judge Drummond, of the United States district court, sitting at Chicago, April 4, 1868, *Held*, that "the simple question is Has there been a failure on the part of the claimant to comply with the law in section 26 of said act in regard to keeping his books as rectifier? It is clear that it is not the intent of the law that each rectifier or distiller shall be furnished with copies of the regulations and requirements. He must take proper pains to ascertain what the rules and regulations are. He must keep the book showing the facts required in the section referred to, even tho the Commissioner has prescribed nothing on the subject, and a failure to keep a correct book under circumstances which indicate that it was thru intent or gross negligence, would subject the party to the penalties both of fine and forfeiture prescribed in said section." (T. D.; January 25, 1868.)

**Income tax—Deduction wages paid children.**

No deduction can be made by the farmer in his returns for the value of services rendered by his minor children, whether he actually pays for such services or not. If his adult children work for him and receive compensation for their labor, they are to be regarded as other hired laborers in determining his income for taxable purposes. (T. D.; January, 1868.)

**Income tax—Separate incomes of family.**

If the members of a family have separate incomes, the returns, for purposes of taxation, may be made separately by the proper parties and a ratable proportion of the $1,000 exempted from the income of each. The parent, as the natural guardian of the minor child, is required to make return for him. But where any other guardian or trustee has been appointed the return should be made by the latter. If the minor has neither guardian nor trustee, he should make return himself. If he refuse or neglect, an independent assessment must be made as in other cases, omitting penalty. (T. D.; January, 1868.)

**Stocks—Depreciation in the sale of them.**

Taxpayers frequently claim deductions for losses from depreciation in the value of stocks or other property of a like character. No deduction can in any case be allowed for depreciation in the value of such property until it is actually disposed of and a loss realized. The law expressly disallows deduction from income on account of any depreciation in the value of property still on hand. (T. D.; January, 1868.)

**Income from accrued interest.**

If interest, accrued during the year on notes, bonds, etc., is good and collectible at the end of the year, it should be returned as income, whether actually collected or not. Where a person can not be compelled to pay interest which nominally falls

**Income from accrued interest**—Continued.

due in any year it can not be deducted from income for taxable purposes. Except where interest money is paid in connection with the carrying on of a business from which income is derived, only such portion of the same as is not in excess of the amount of interest received or falling due to the taxpayer is to be offset against income. (T. D.; January, 1868.)

**Insurance on life and dwelling.**

So far as insurance moneys are paid as an expense of business, they are, for purposes of taxation, deductible from income, but no insurance on the homestead of a taxpayer, nor on his life or other lives, nor on his rented property (if paid by tenant) can be allowed. Insurance paid by tenant is deductible from tenant's income as rent paid. (T. D.; January, 1868.)

**Income of deceased persons.**

The income of persons who died after December 31, 1867, are taxable, and should be returned by executors or administrators, and also all income which accrued in 1867, to persons who died within that year. Income which accrued from the estates of such persons in 1867, after the date of decease, should be returned by the heirs or by other persons who received the benefit of the same. (T. D.; January, 1868.)

**United States taxes and State taxes.**

United States legacy and succession taxes are deductible from taxable income of the beneficiaries, by or for whom they are paid, but from no other income. The same is true of State taxes paid by or for such beneficiaries. The tax due on the income of a testator, or of an intestate during 1867, previous to his death, diminishes only the amount of legacy. (T. D.; January, 1868.)

**Residents and nonresidents—Income tax.**

Residents should make their taxable returns in the district where they reside at the time of making them. The residence required under section 116, act of June 30, 1864, for the purpose of taxing income is held to be a residence during the year for which income is "derived." If any person subject to income tax changes his residence, his return should be made in the district in which he last resided. (T. D.; January, 1868.)

**Income tax—Americans residing abroad.**

Citizens of the United States residing abroad are subject to tax in the same manner as citizens residing in this country, upon their entire incomes from all sources whatever; and the same is true of foreigners residing in this country. (T. D.; January, 1868.)

**Income of Government employees.**

It is held that whenever the salary or pay received by any person in Government employ does not exceed the rate of $1,000 per annum, or is made up of fees, or is either uncertain or irregular in amount or in time, and has not, therefore, been subjected to salary tax, it should be included with other taxable income. Where such salary exceeds the rate of $1,000 per annum, the amount of salary from which the tax has been deducted may be deducted from the gross income. (T. D.; January, 1868.)

**Income from sale of lease.**

A lease for years or for life is personal estate, and any profit from the sale of such a lease is taxable as income for the year of sale. (T. D.; January, 1868.)

**Income—Lawyers and physicians.**

Lawyers and physicians may return either the actual fees received during the year without regard to the time when they accrued or the amounts due to the business of the year. But when the taxpayer has heretofore adopted one method, he can not now be allowed to make use of the other. (T. D.; January, 1868.)

**Losses on sale of stocks.**

It is held, for purposes of taxation, that where stocks are sold for less than actual cost, the difference between such cost and the price at which the same are actually sold may be allowed as a deduction from income of the year of sale. (T. D.; January, 1868.)

**Income of annuitants.**

The payment of legacy or succession tax on the bequest of an annuity does not relieve the annuitant from liability to income tax on his annuity. (T. D.; January, 1868.)

**Income tax on undivided profits in corporations.**

The attention of assessors is particularly called to the language of the act of June 30, 1864, the terms of which require to be included in returns of income the share of any person in the gains and profits of all companies, whether incorporated or partnership, who would be entitled to the same if divided, whether divided or otherwise. (T. D.; January, 1868.)

**Taxes for 1867 paid in 1868.**

It is held that national, State, county, and municipal taxes, not actually paid until 1868, should not be deducted from the income of 1867, even tho they may have been due and payable in the latter-named year. (T. D.; January, 1868.)

**Losses of capital.**

Losses of capital, such as losses by robbery, losses as surety, etc., can not be deducted from taxable income. (T. D.; January, 1868.)

**Income from interest on Government securities.**

It is believed that in many instances, in the assessment of income for former years, persons holding United States securities have not included the accruing interest in their return of income. Assessors should inquire especially into this subject, and, if the omission has been made, the deficiency should be assessed, but without penalty when it appears to have been due to a misapprehension of the law. (T. D.; January, 1868.)

**Salary of minor child.**

If a taxpayer have a minor child in the service of the Government receiving a salary, the parent of such child should include in his income return so much of the salary of the child as is not subject to salary tax under the internal-revenue law. (T. D.; January, 1868.)

**Income return by legatee.**

When any portion of a legacy has been transferred by the executor to a legatee, so that the executor in his capacity of guardian or trustee has no longer any control of the profits arising from such legacy, the return of such profits as income for taxable purposes must be required of the legatee. (T. D.; January, 1868.)

**Conveyancer defined for taxation.**

Every person other than one paying special tax as lawyer or claim agent who makes it his business, or any part of his business, to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, who by advertisement or conversation, or by accepting the business whenever it is offered, holds himself out to the public as ready to undertake it, is a conveyancer, and as such should be required to pay tax. (T. D.; January, 1868.)

**Conveyancers preparing Government claims.**

Persons engaged in the business of preparing legal papers in support of claims against the General Government, who do not present the claims either personally or by letter before the Departments, should be taxed as conveyancers, unless already paying special tax as lawyers or claim agents. (T. D.; January, 1868.)

**Manufacturers as dealers.**

Without additional liability, manufacturers may sell their wares at the place of manufacture, or at their principal office, provided no wares are kept at such office except as samples. If, however, a manufacturer sell at his factory, or at his office, goods not of his own production, or if he sell his own products away from the place of production, except as already stated, he must pay tax as a dealer if his sales exceed $1,000 annually, and the tax will be assessed on his sales of such goods only. (T. D.; January, 1868.)

**Retail liquor dealer closing business.**

It is held that a retail dealer in liquors, wishing to close up business, may sell out his whole stock at one auction sale to different purchasers, or may sell the whole at private sale to one purchaser, without payment of special tax as a wholesale dealer in liquors. (T. D.; January, 1868.)

**Reassessment of retail liquor dealers.**

If the sales of a retail dealer in liquors exceed $25,000 he should be reassessed as a wholesale dealer in liquors. The collector should enter the amount of reassessment paid on the tax receipt. (T. D.; January, 1868.)

**Dealers, wholesale and retail.**

The special tax of dealers must be assessed upon the basis of all sales made either by themselves or thru others, except those thru other wholesale dealers on commission. (T. D.; January, 1868.)

**Brewers' and rectifiers' sales at retail.**

Brewers and rectifiers may sell their liquors at the brewery or place of rectification in either large or small quantities, either to be drunk on the premises or not, without payment of other special tax. Brewers and rectifiers may also deliver their liquors upon orders previously received to their regular customers about the country without payment of special tax as peddlers. (T. D.; January, 1868.)

**Packages, original or unbroken.**

Original or unbroken packages or pieces as referred to in paragraph 32, section 79, act of June 30, 1864, are held to be packages or pieces sold just as they come from the manufacturer, wholesale dealer, or importer, without being either broken or divided. (T. D.; January, 1868.)

**Liquors medicated as beverages.**

When spirituous liquors are medicated or mixt with foreign substances, but to so slight a degree that they are still used as beverages and are sold as such, the special tax of a liquor dealer will be required of the seller; but when the medication or admixture is carried to such an extent that the liquor is no longer susceptible of use as a beverage the tax will not be required. (T. D.; January, 1868.)

**Agents of commercial brokers.**

Persons traveling about the country as the agents of manufacturers or dealers seeking orders for goods as agents of one person or firm only and who are paid a salary but receive no commission whatever should not be required to pay tax as produce or commercial brokers. Dealers may purchase produce to be sold at the place named in their tax receipt exclusively without incurring liability as produce brokers. (T. D.; January, 1868.)

**Liability to special tax defined.**

The liability to special tax depends in many cases upon the question whether the party makes a business of doing the acts specified. Occasional acts do not render a person liable to special tax, but it is not necessary that the business should be his sole business, or even his principal one, in order that he shall be held liable. If

**Liability to special tax defined**—Continued.

a person holds out to the public by advertisement, by words, deeds, or writing that he is ready to transact any kind of business subject to special tax, he must pay such tax, altho the business in question may not be his chief or exclusive occupation. In certain occupations and professions even occasional acts do not appear to be allowed by the terms of the law without liability, viz, wholesale and retail dealers in liquors, lottery-ticket dealers, distillers, brewers, rectifiers, coal-oil distillers, insurance agents, peddlers, photographers, circuses, jugglers, bowling alleys, proprietors of gift enterprises, and lawyers. (T. D.; January, 1868.)

**Place of business affecting tax receipts.**

Section 74, act of June 30, 1864, requires all special tax receipts (excepting auctioneers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents and peddlers) to specify the place at which the business is to be done, and the word "place" is construed to mean the premises occupied by the taxpayer for business purposes, whether it be a single room in a building or several buildings on the same premises and used for the same purpose. But there are certain branches of business that are not limited to such premises, the act providing that lawyers, physicians, surgeons, dentists, cattle brokers, horse brokers, etc., may do business at any place without additional special tax. Proprietors of circuses, jugglers, etc., must pay a special tax in each State in which they exhibit. (T. D.; January, 1868.)

**Reassessment of produce dealers.**

If a produce broker's sales exceed $10,000 per annum, he should be taxed as a commercial broker or as a dealer, as the case may be. (T. D.; January, 1868.)

**Inventions—Sellers of patent rights.**

Persons whose business it is to sell patent rights should pay tax as patent-rights dealers, even tho they sell only the patent rights for their own inventions. Assessors will observe that a patent-rights dealer is subject to a different special tax from that of a patent-rights agent. (T. D.; January, 1868.)

**Assessment of manufacturers' tax.**

Under the act of March 31, 1868, it is held that all goods, wares, and merchandise sold by manufacturers subsequently to April 1, 1868, and during the quarter ending June 30, upon which no taxes have been assessed and paid and which are not especially taxed, will be subject to the provisions of the fourth section of that act, taxing sales, and a return of such sales will be required to be made on or before the 10th day of July, and in like manner for every succeeding quarter. (T. D.; May 2, 1868.)

**Inventories of tobacco, snuff, and cigars.**

Section 78, act of July 20, 1868, requires every dealer in manufactured tobacco having on hand more than 20 pounds and every dealer in snuff having on hand more than 10 pounds to make and deposit immediately with the assistant assessor of the proper division an inventory, taken under oath, setting forth the amount of such tobacco and snuff, respectively, and to make and deposit a like inventory with the assistant assessor on the 1st of each month, as provided by law. It is further held that, after January 1, 1869, all smoking, fine cut, chewing tobacco, or snuff, and, after July 1, 1869, all other manufactured tobacco, is to be taken and deemed to have been manufactured after the passage of the act, and is required to be put up in packages and stamped as provided by law. (T. D.; August 8, 1868.)

**Suppression of unauthorized alcoholic spirits, etc.**

The object of section 4, act of July 20, 1868, was evidently to enable the Commissioner of Internal Revenue to suppress all manner of distillation of spirits not expressly authorized by law and to collect the tax on all alcoholic spirits manufactured. The laws prior to this act were found to be inefficient, and all efforts to secure a uniform

**Suppression of unauthorized alcoholic spirits, etc.**—Continued.

enforcement of them were frustrated by a disagreement among the courts in different sections of the country as to the proper construction of such laws. The meaning of this section, however, can not be doubtful. Under it no article into which alcoholic vapors enter as an ingredient can be lawfully manufactured, unless such spirits or alcohol have been produced in an authorized distillery and have paid the tax. (T. D.; August 8, 1868.)

**Spirits forfeited—Sale by United States marshals.**

It is provided by section 58, act of July 20, 1868, that all spirits forfeited to the United States, sold by order of court, and any distilled spirits condemned before the passage of the act and in possession of the United States shall be sold subject to tax, and the purchaser shall immediately, before taking possession of said spirits, pay the tax thereon. The spirits so sold are subject to tax, without regard to the question whether or not the tax has been previously paid. (T. D.; August 21, 1868.)

**Liability of railroad companies to tax on profits.**

The twentieth section, act of 1864, as amended by the act of 1866, limits the time in which assessment may be made for past deficiencies to fifteen months from the date of the delivery of the list to the collector, and while in express terms this limitation applies to assessments only there is little doubt that it was intended to bar the Government of any tax claim that should be made within fifteen months. If, however, the returns of any railroad company, made more than fifteen months since, are ascertained to have been fraudulent, the company is still liable to the penalties for its fraud, and proceedings should be instituted for the enforcement of them. (T. D.; July 18, 1868.)

**Informer's share of goods forfeited.**

Persons having filed petitions as informers, under the act of July, 1866, in the case of the seizure of 200 barrels of whisky in Boston, Judge Lowell, in the United States district court for Massachusetts, held that the informer's share of goods forfeited under section 179, act of 1864, as amended by that of July 13, 1866, is given only to persons in consequence of whose information the forfeiture was in fact decreed or imposed. A revenue officer may be an informer when he incidentally, and not in the direct course of his duties or by virtue of a special retainer for that purpose, makes a discovery of forfeited goods. A seizing officer who merely follows instructions is not as such entitled to an informer's share. (July 18, 1868.)

**Assessment and reassessment of special taxes.**

By the act of July 20, 1868, several special taxes are imposed and some existing special taxes are increased or otherwise changed, and the attention of assessors and assistant assessors is called to the proper method of assessing or of reassessing such taxes for the fractional part of the current year. The Commissioner of Internal Revenue issues a special circular (No. 172) in which are given to collectors the instructions authorized by the aforesaid act for the assessment of distillers, rectifiers, compounders of liquors, wholesale liquor dealers, manufacturers of stills, dealers in leaf tobacco, dealers in tobacco, manufacturers of tobacco, and manufacturers of cigars. (T. D.; August 6, 1868.)

**Warehouses—Discontinuance by the Commissioner.**

In pursuance of the act of July 20, 1868, whenever the Commissioner of Internal Revenue shall be of opinion that any warehouse is unsafe or unfit for use, or that the merchandise therein is liable to great wastage, he may discontinue such warehouse and require the merchandise therein to be transferred to such other warehouse as he may designate and within a time to be prescribed by him, at the expense of the owner of the merchandise. If such transfer is not made, or such expense not paid by the owner, the merchandise will be seized and sold by the collector as upon distraint. (T. D.; August 22, 1868.)

**Inhibition upon revenue officers.**

Under no circumstances must an internal-revenue officer be interested, either directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, under the penalties imposed by section 97, act of July 20, 1868. (T. D.; August 22, 1868.)

**Compromise cases—Authority of the Commissioner.**

Interpreting section 102, act of July, 1868, relative to the settlement terms of compromise in revenue cases, Acting Attorney-General Ashton holds that the final authority and responsibility rest with the Commissioner of Internal Revenue. The functions of the Secretary of the Treasury and of the Attorney-General are advisory. The Commissioner may compromise with their consent, but even in a case where both of them consent to a proposed compromise, the Commissioner may, for good reasons refuse to effect it. (T. D.; September 1, 1868.)

**Returns of stock—Duties of holders.**

The return prescribed in section 57, act of July 20, 1868, should not be required of any person who had not exceeding 50 gallons of distilled spirits in his possession for sale on November 1, 1868. In case of seizure, however, the burden of proof rests upon the claimant, as provided by section 36 of said act, and to avoid the trouble to all parties consequent upon possible seizure under section 41, or forfeiture after thirty days under section 57, it is advisable that persons having in their possession 50 gallons or less for sale should also make the return and have the same gaged and marked by the collector—the return in such case being optional. (T. D.; November 28, 1868.)

**Leases of distilleries under section 8, act of 1868.**

The filing of an original lease, or copies thereof, in the offices of the collector and assessor is not such a record thereof as is contemplated by section 8, act of July 20, 1868. The provision in said section in regard to a lease duly recorded prior to the passage of the act is in the nature of an exception to the general rule contained in the first part of the section, and if, because there is no public record of the lease, or for any other cause, the terms of the exception have not been complied with, the general rule must be enforced. (T. D.; November 28, 1868.)

**Distillery stoppage for breakage.**

No allowance can be made for the suspension of work in a distillery by reason of a breakage until a suspension has been effected in the manner required by section 22, act of July 20, 1868. The loss between the time of breakage and the suspension according to the statute must be borne by the distiller as an incidental loss for which the present law affords no relief. (T. D.; November 28, 1868.)

**Entries by wholesale liquor dealers.**

The requirements of section 45, act of July 20, 1868, do not apply to sales as such, but to every case of removal of spirits, whether upon sale or otherwise, from the premises of a rectifier, compounder, or wholesale liquor dealer. Section 75 of that act fixes 5 gallons as the maximum size of packages which do not need the marks and stamps required by the act to protect them from forfeiture, and it is believed to be sufficient for a rectifier, wholesale dealer, dealer, or compounder of liquors to enter in his record all the particulars specified in section 45 as to each package exceeding 5 gallons and to enter in aggregate, daily, all lesser quantities removed on sale ore therwise, with such of the particulars prescribed by section 45 as can be stated in aggregate. (T. D.; November 28, 1868.)

**Exemption of brewers and distillers.**

A distiller or brewer who has paid his special tax as such is not required to pay the special tax of a wholesale liquor dealer, for selling "only distilled spirits or malt

**Exemption of brewers and distillers**—Continued.

liquors of his own production at the place of manufacture, in the original casks or packages in which they are placed for the purpose of affixing tax stamps;" but the exemption does not extend and apply to a commission merchant or agent to whom he consigns his products for sale. (T. D.; November 28, 1868.)

**Brandy distillers—The per diem tax.**

A distiller of brandy from apples, peaches, or grapes, exclusively, is subject to the per diem capacity tax imposed by section 13, act of July 20, 1868, until the distillery is closed for the season, except for those days on which he proves to the satisfaction of the assessor that the distillery was not in operation. (T. D.; November 28, 1868.)

**Distiller's bonds—Custody and disposition.**

The sureties on a distiller's bond (Form 30) are jointly and severally liable to the full extent of its penal sum. The bond should not be surrendered at the close of the special tax year nor at any other time, but should be retained as security for any liability which may be discovered to have been incurred during the period covered by it. (T. D.; November 28, 1868.)

**Capacity tax imposed on distilleries.**

The estimate of a distillery's daily capacity, as required under the act of July 20, 1868, section 10, should be the amount it can produce, that is, the number of gallons it is capable of producing by running, in good order, the entire twenty-four hours without deduction for any cause. To determine this, there should first be an estimate of the bushels of grain that can be mashed and fermented in twenty-four hours under favorable circumstances with all the apparatus in good order, and this number of bushels, multiplied by the quantity of spirits which under favorable circumstances can be produced by the distillery from a bushel of grain, will give the capacity upon which the capacity tax imposed by section 13 should be assessed. (T. D.; November 28, 1868.)

**Marking of wooden packages of tobacco.**

Section 62, act of July 20, 1868, requires that wooden packages in which tobacco is put up "shall have printed or marked thereon the manufacturer's name and place of manufacture, or the proprietor's name and his trade-mark, and the registered number of the manufactory and the gross weight, the tare, and the net weight of the tobacco in each package." This printing must be done with a branding iron, a stencil plate and a brush, or in some other manner by which the letters shall be legibly and permanently impressed upon the wood or indented in it. The label and notice prescribed by section 68, act of July 20, 1868, are "in addition to all other requirements" of the act and consequently in addition to the marks and brands required by section 62. The one can not be substituted for the other, but both must appear on each and every page. (T. D.; December 5, 1868.)

**Assessment erroneously made.**

Where a tax has been assessed on tobacco, snuff, or cigars before any tax actually accrued thereon or before sale or removal for consumption or sale it will be abated or refunded on application in proper form to the Commissioner of Internal Revenue. (T. D.; December 5, 1668.)

**Stamping of tobacco, snuff, and cigars.**

Tobacco, snuff, or cigars can not, since November 23, 1868, be lawfully removed from the place of their manufacture or production for either sale or consumption until they are packed and stamped in accordance with the provisions of the act of July 20, 1868, even tho they have been inspected and returned, a tax having been assessed and paid upon them. (T. D.; December 5, 1868.)

**Manufacturers of tobacco, etc.—Privileges as to old stock.**

A manufacturer of tobacco, snuff, and cigars who sells his products away from the place of production is a dealer in tobacco and is subject to all the liabilities and entitled to all the privileges of other dealers in tobacco. Tobacco, snuff, and cigars, therefore, which prior to November 23, 1868, were removed from the place of manufacture to his place of business as a dealer in tobacco for sale, or which prior to that date were removed and placed in the hands of his agents for that purpose, may be sold without stamps at any time prior to the date prescribed in sections 78 and 94, act of July 20, 1868, for stamping them in the hands of all persons selling them or affixing them for sale. (T. D.; December 5, 1868.)

**Reinspection and repacking of tobacco.**

In pursuance of section 78, act of July 20, 1868, as amended by the act of December 22, 1868, it is held that any dealer in manufactured tobacco who has made a correct inventory and return of the same to the assessor, as required by section 78, may apply to such assessor and upon submitting satisfactory proof that the tobacco which the dealer desires to repack and have reinspected was properly inspected under the former law and was included in his inventory under section 78, act of July 20, 1868, said assessor may direct an inspector of tobacco for the district to supervise the repacking. The tobacco having been put up in the packages required may be packed in cases or inclosures of such size as the dealer may desire. (T. D.; December 28, 1868.)

**Signs of wholesale liquor dealers.**

Section 18, act of July 20, 1868, prescribes what words, etc., must be put on the sign of a wholesale liquor dealer. Other words, however, if desired, may be added to show the precise character of the business, as, for instance, "In alcohol only." (T. D.; December 28, 1868.)

**Gaging and stamping.**

It is only when the capacity of a cask or package of distilled spirits, filled for shipment or for sale or delivery on the premises of a rectifier, wholesale liquor dealer, or compounder, exceeds 5 gallons that it can be forfeited to the United States for not having thereon the stamps and marks required by the act of July 20, 1868. Therefore casks and packages containing 5 gallons or less need not be inspected, gaged, and stamped in the manner required by the twenty-fifth section of said act. (T. D.; December 28, 1868.)

**Spirits changing package.**

When by reason of a change of package, made on the premises of a rectifier, wholesale liquor dealer, or compounder, a cask or package falls under the provisions of section 25 and section 47, act of July 20, 1868, it need be inspected and gaged but once. In addition, however, to the marks, etc., required by section 47, it must be stamped with either the wholesale dealer's or rectifier's stamp, according to the facts in the case, as prescribed by section 25 of said act. (T. D.; December 28, 1868.)

**Stamping packages of spirits.**

Distilled spirits transferred, not from "any cask or other package," but directly from the rectifier's or compounder's vats or other similar reservoirs to casks or other packages filled for shipment, sale, or delivery, must be stamped as required by section 25, but do not fall under section 47, act of July 20, 1868. (T. D.; December 28, 1868.)

**Distillery taxed $2 per diem.**

The tax of $2 per diem imposed by section 13, act of July 20, 1868, must be paid for every distillery, howsoever small its capacity. When the capacity for mashing or fermenting exceeds 20 bushels of grain, or 60 gallons of molasses to the full extent of another 20 bushels or 60 gallons in twenty-four hours the tax should be $4 per day,

**Distillery taxed $2 per diem**—Continued.

with $2 per day additional for each and every additional 20 bushels or 60 gallons; but no additional tax is imposed for the fractional part of 20 bushels or 60 gallons. (T. D.; December 28, 1868.)

**Allowance on bonded spirits.**

Interpreting the language of section 23, act of July 20, 1868, relating to the allowance for leakage of spirits, bonded, to be withdrawn from warehouse within a year, it is held that the language shows plainly that the allowance is not warranted by the statute. All distilled spirits are required to be withdrawn from the receiving cisterns into casks which, after being marked and stamped in such a way as to show the contents, are to be placed immediately in a warehouse. On the prescribed days the distiller must make his entry for deposit, which should specify the number of gallons contained in the casks and the amount of tax on the spirits; and the distiller must give a bond conditioned that he will pay the tax as specified in the entry, or cause the same to be paid before removal from the warehouse and within one year from the date of his bond. (T. D.; January 23, 1869.)

**Sales—Keeping an account in liquor dealer's book.**

It being impracticable for those who sell liquors at retail by the pint, half pint, or by the glass at the bar to keep a daily account, embracing the quantity, etc., of each item of such sales, or even to keep a correct account of the daily aggregates of the quantities thus sold, it is evident that the term "wholesale liquor dealers" in section 45, act of July 20, 1868, relating to daily entries of each item of receipts and removals of spirits, is used in only the popular sense, and refers to all who are wholesale liquor dealers in that sense, having reference to the general character of their sales and not to the annual amount of their sales. (T. D.; January 10, 1869.)

**Sales of wholesale liquor dealers—Special tax.**

Section 45, act of July 20, 1868, is not to be held as applying to those who are not wholesale liquor dealers in the popular sense, but who are classed as such in the law only because their retail sales of liquors, or of liquors and other merchandise, exceed $25,000 per annum, and which classification was mainly for the purpose of imposing the special tax. (T. D.; January 10, 1869.)

**Imported spirits unchanged by domestic compounding or rectifying.**

It is to be presumed that all distilled spirits found in the United States are of domestic production unless the contrary appears; but where spirits are in fact imported and have not been rectified or compounded since importation, they are not subject to the requirements of sections 25, 37, or 47, nor of so much of section 57, act of July 20, 1868, as refers to returns of stock on hand. Imported spirits, however, are subject to the requirements of section 45, act of July 20, 1868. (T. D.; January 10, 1869.)

**Liabilities of fruit distillers—Capacity tax.**

All laws and regulations, relating to the distillers of distilled spirits, apply equally to distillers of brandy from apples, peaches, or grapes, excepting only where such distillers have been specially exempted as stated in preceding rulings. The per diem capacity tax is to be assessed against such distillers for every day from the commencement of the operation of their distilleries until the close of the season, excepting only Sundays and such days as to which satisfactory evidence is furnished to the assessor that the distillery was not in operation. (T. D.; January 10, 1869.)

**Wholesale liquor dealers—Separate accounts.**

A merchant whose aggregate sales of merchandise, including liquors, exceed $25,000 per annum is required to pay the special tax of a wholesale liquor dealer, and in addition thereto a tax of $10 for every $1,000 of sales of liquors and $1 for every

**Wholesale liquor dealers—Separate accounts**—Continued.

$1,000 of sales of other merchandise in excess of said $25,000. When the sales of such a merchant reach $25,000 per annum, or at that rate, he should keep a separate acconnt of liquor sales. If the latter do not reach $1,000 for the year, there will be no assessment of the additional tax of $10 per thousand. (T. D.; January 10, 1869.)

**Gaging, marking, branding packages, etc.**

The provisions of section 25, act of July 20, 1868, as to gaging and stamping casks or other packages of spirits filled for shipment, sale, or delivery on the premises of a rectifier, wholesale liquor dealer, or compounder are to be observed as to all packages containing more than 5 gallons. The omission from that section of a limitation of the size of packages, and of any penalty for noncompliance with its requirements, is supplied by that portion of section 57 which provides for the forfeiture to the United States of all distilled spirits found "in any cask or package containing more than five, without having thereon each mark and stamp required therefor by the act of July 20, 1868." (T. D.; January 10, 1869.)

**Conditions of seizure and forfeiture.**

Where spirits in quantity exceeding 5 gallons are placed under the conditions stated in sections 25 and 47, act of July 20, 1868, in any package that can not be gaged, stamped, or marked as required, such spirits should be seized immediately and proceeded against for forfeiture. The provisions of section 47 are applicable in all cases when spirits are "drawn from any cask or other package and placed in any other cask or package containing not less than 10 gallons and intended for sale." When such change of package takes place on the premises of a rectifier, wholesale liquor dealer, or compounder, as stated in section 25, the requirement of a stamp, as prescribed in that section, must also be observed. (T. D.; January 10, 1869.)

**Abatement claims.**

Claims for the abatement of amounts assessed for stamps placed on packages containing distilled spirits (other than tax-paid stamps) which are found to be uncollectible, should be made out on the usual forms, 53 and 48. (T. D.; February 6, 1869.)

**Gaging fees—Duties of collectors.**

Section 53, act of July 20, 1868, provides that "fees for gaging and inspecting shall be prescribed by the Commissioner of Internal Revenue to be paid to the collector by the owner or producer of the articles to be gaged or inspected." Under this clause it is plain that the collector, who fails to collect the amount due for gaging, becomes liable to the gager for the amount. In order to secure himself, a collector is authorized to require payment of the fees before the work is done. (T. D.; February 6, 1869.)

**Samples taken in distillery warehouses.**

The rule heretofore published in instructions, allowing owners of spirits in bond to take samples of spirits to the amount of one-half pint from each cask, will be applied by collectors to spirits stored in bond in distillery warehouses, under the act of July 20, 1868. (T. D.; February 6, 1868.)

**Wantage and allowances.**

The rule in regard to wantage applies only to spirits when gaged in the cistern room before storage in the distillery warehouse. When a cask contains only one-half barrel, the allowance will be only one-fourth of a wine gallon unless more is ascertained by the wantage rod, and allowances will be made in this proportion for casks of other sizes less than a full barrel. (T. D.; February 6, 1869.)

**Returns of monthly inventories of tobacco.**

The Commissioner of Internal Revenue has recently, in answer to interrogatories, *held* that, where a dealer in tobacco refuses or neglects to make a true inventory, as required by section 78, act of July 20, 1868, it is competent and proper for the assessor to examine the dealer's stock, and that lack of the tax-paid stamp affords such reasonable presumption that tax has not been paid on the tobacco, and that it is selling in fraud of the revenue, as to justify and require on his part a report of the facts to the collector, whose duty it is to seize the stock, leaving the burden upon claimant to show compliance with the law. (T. D.; February 6, 1869.)

**Packing and stamping tobacco, snuff, and cigars.**

The prepayment of tax by stamps on all tobacco, snuff, and cigars before the goods are removed from the manufactory or place where they are made is the distinctive feature of the present law relating to the manufacture of tobacco, etc. It is made, therefore, a penal offense, punishable with fines and imprisonment, in addition to the forfeiture of the goods, if any person shall remove such goods from the factory or place where they were made, except tobacco and snuff intended for export, before the same are packed in the manner prescribed, or before payment is made of the tax by affixing stamps denoting such payment. All cigars must be packed and stamped at the place where they are made. (T. D.; February 6, 1869.)

**Fees of gagers for branding and stamping.**

Notwithstanding the fact that gaging and proving are not required on withdrawals from a distillery warehouse, the gager is entitled to a fee for stamping and branding the casks at that time. The general rule is that the fee for this service shall be one-half the fee for an inspection into a warehouse. (T. D.; February 13, 1869.)

**Distraint—Proceeds of sales distributable.**

The net proceeds of sales under distraint in accordance with the internal-revenue laws are neither fines, penalties, nor forfeitures, but are received as payment of tax, and as such are credited to the use of the United States. This ruling is in conformity with section 28, act of June 30, 1864. (T. D.; November 14, 1868.)

**Recommencement of work in distillery.**

Where work has been suspended in a distillery in accordance with the provisions of section 22, act of July 20, 1868—all mash having been run off—the distiller will, at the hour of 12 meridian on the third day after that stated in his notice of resumption, be deemed to have commenced and thereafter to be continuously engaged in the production of distilled spirits in his distillery, until he shall have again suspended in accordance with the aforesaid section of law. (T. D.; February 20, 1868.)

**Tobacco tax-paid, but unstamped.**

The additional time given by the act of December 22, 1868, during which dealers might sell smoking and fine-cut chewing tobacco without packing and stamping the same as required by sections 62 and 78, act of July 20, 1868, expired February 15, 1869, and hereafter all such tobacco, before being sold or offered for sale, must be put up in packages prescribed by law and stamped. Severe penalties are imposed for any violation of the law in this regard. It becomes the duty of all revenue officers to cause the law in this respect to be obeyed, and to report all violations of it for prosecution. (T. D.; February 15, 1869.)

**Snuff from stamped packages.**

It is held that it was not the intention of Congress to prohibit the sale by retail of snuff from bladders or from jars stamped according to law. No objection will be interposed by the office of internal revenue to dealers selling by retail from such stamped packages. (T. D.; February 29, 1869.)

**Old stock tobacco, tax-paid, but unstamped.**

Interpreting special order, No. 63, it is held as merely authorizing the reinspection of tobacco which had been sold in bulk or barrels when parties wished to report prior to the time when the law requires such repacking in order to facilitate the sale of such old stock, it being alleged that at that time the sales of tobacco in bulk could not be made. That order, as anyone can see, holds out no idea that the repacking or reinspection would relieve the persons holding such tobacco from liability stamp when the time fixt by law for stamping should have arrived. (T. D.; February 29, 1869.)

**Deposits of proceeds of judgments.**

Only such amounts of the proceeds of judgments as are divisible between the Government and the informer should be deposited to the credit of the Secretary of the Treasury by collectors in internal-revenue cases. (T. D.; December 2, 1868.)

**Abatement for erroneous assessment.**

Under section 44, act of June 30, 1864, no abatement can be made of an assessment of internal-revenue tax on the ground, as may be alleged, that it was not had at the prescribed time, unless it is proved that there was no deficiency in the former return. (T. D.; December 5, 1868.)

**Peddler's forfeit indivisible.**

The property of a peddler found trading without a license and forfeited by reason of the absence of a license under internal-revenue laws is not divisible with an informer. (T. D.; December 21, 1868.)

**Assessors as informers.**

It is not considered by the Office of Internal Revenue that a person is debarred from sharing as an informer because of holding the office of assessor of internal revenue. (T. D.; December 28, 1868.)

**Ullage casks in distillery warehouse.**

It is held that filling up ullage casks from other casks in distillery warehouse can not be allowed. All the casks must be withdrawn without filling from each other after payment of tax on amount named "in the entry for deposit." After the withdrawal, the owner having sole control of the packages can fill one from another or not, as he chooses. This is his matter and does not concern the Government. (T. D.; March 13, 1869.)

**Seisures of distilleries—Act of July 20, 1868.**

In seizures of distilleries for infractions of the law, under the act of July 20, 1868, the limitation of twenty days within which proceedings to enforce forfeiture, provided in section 25, act of March 2, 1867, does not apply. It will be observed that the section last recited declared certain causes for forfeiture, and provided that proceedings to enforce said forfeiture shall be begun, etc. When, in a subsequent year, under new regulations in regard to distilled spirits, other and new acts or omissions are declared causes for forfeiture, a proviso in relation to proceedings under previous acts would not seem applicable. In proceedings begun more than twenty days after seizure, section 25, of the act of March 2, 1867, should not be counted on. (T. D.; March 13, 1869.)

**Accounts of assistant assessors.**

Concerning the accounts of assistant assessors as required by section 24, act of June 30, 1864, as subsequently amended, embracing pay and charges allowed by law monthly, it is held that, if the collector knows or has reason to believe the account to be erroneous, he should refer the same to the commissioner, stating his grounds for so doing and informing the assistant assessor of the same. When a bill of assistant assessor is paid by the disbursing agent of the district, and it appears on its face that no

**Accounts of assistant assessors**—Continued.

names are added to the list, or that the amount of the bill is disproportionate to the amount assessed, the amount so paid will be past to the credit of the disbursing agent and be deducted from the salary of the assessor, unless he furnish by indorsement on the bill satisfactory reasons for the omission of names, or for the apparent disproportion between the amount of the bill and the amount of service rendered. (T. D.; March 26, 1869.)

**Tobacco manufactured—Sixteen and thirty-two cents tax.**

Under the act of July 20, 1868, it is provided that the smoking tobacco that is taxable at the rate of 16 cents per pound must be made not only of leaf with all the stems in, but that the process of manufacture must be such as to preclude the possibility of any separation of the stems or any portion thereof. If, however, in the process of manufacture, the stems are stripped from the leaf and rolled, prest, colored, or otherwise prepared, and then cut or ground and mixt with the leaf properly reduced, or if, after such preparation of the stems, they are mixt with the leaf and both cut or ground, the product is a smoking tobacco liable to a tax of 32 cents per pound. (T. D.; March 26, 1869.)

**Notice to parties under charges, etc.**

Guided by the last proviso to section 118, act of June 30, 1864, as amended by section 13, act of March 2, 1867, relating to notice to parties charged with failure, neglect, or refusal to make true and correct returns of annual gains, profits, and income, for purposes of taxation, it is prescribed that, before assessing a penalty upon any person for neglect or refusal to make such return, or for making or rendering a false or fraudulent one, the assistant assessor whose duty it is to assess taxes upon the annual gains, profits, and income of the person charged shall cause a notice, in due form, to be served on such person, by delivering it, or causing it to be delivered to him in hand, or leaving it, or causing it to be left at his last and usual place of abode, at least fifteen days prior to the day of hearing. (T. D.; April 1, 1869.)

**Spirits withdrawn from old Class A and B warehouses.**

It is ruled that in all withdrawals of distilled spirits from any old Class A or Class B warehouses the collector should collect the tax of 60 cents per gallon on the quantity as shown by the gage at the time said spirits were deposited in or transferred to the warehouse in which they now are. This ruling applies to all spirits produced prior to July 20, 1868. (T. D.; April 14, 1869.)

**Deductions for payments by sureties.**

By section 13, act of March 2, 1867, among the deductions from taxable income is that for "debts ascertained to be worthless." Payment by a surety makes his principal his debtor. The claim of the surety against his principal may be perfectly good; he may have full security; or the principal may simply be absent, or only temporarily embarrassed. Money paid as surety is not, therefore, invariably lost, but, when it is found to be a loss, it may be deducted under the head of "debts ascertained to be worthless." (T. D.; April 12, 1869.)

**Collectors' certificates and claimants' affidavits.**

All affidavits required by the act of April 10, 1869, regulating the refunding of taxes paid on tobacco, snuff, and cigars, must be made before persons competent to administer oaths, and the affidavits of all witnesses must be certified by a collector or assessor of internal revenue. All certificates of collectors of internal revenue or of customs must be authenticated by their official seals. (T. D.; May 1,1869.)

**Evidence in refunding cases.**

Claimants for the refunding of taxes under the provisions of section 3, act of April 10, 1869, will be required to furnish evidence proving to the satisfaction of the Commissioner that the tax imposed by said act has been previously paid. This evidence

**Evidence in refunding cases—Continued.**

must, in all cases, include the affidavit of the manufacturer, or of some other person, who paid the tax, corroborated by the certificates of the assessor and collector who made the assessment and the collection, or of their successors in office. (T. D.; May 1, 1869.)

**Informers' shares—Blatchford's ruling.**

April 27, 1869, the United States district court, southern district of New York, Judge Blatchford sitting in a case where an internal-revenue inspector appointed under section 5, act of June 30, 1864, claimed under section 179, of said act, as amended by the act of July 13, 1866, a share as informer of certain forfeitures under the revenue laws, *Held*, that, notwithstanding he was, as against all other claimants, the person who first discovered and disclosed the frauds in consequence of which the forfeitures were incurred, yet he was not entitled to a share of the same as informer, inasmuch as the information was acquired by him in the discharge of his official duties, and belonged of right to the United States. (T. D.; May 8, 1869.)

**Cancellation of adhesive stamps.**

In all cases where an adhesive stamp shall hereafter be used, except as may be otherwise provided, the person using or affixing the same to the instrument, matter, or thing to be taxed, shall so affix the stamp or stamps denoting the tax that the entire surface of each stamp so affixt shall be exposed to view and shall cancel the same by writing or imprinting in a legible manner, with ink, upon each stamp so used, the initials of his name and the date on which the same shall be affixt, or by such mechanical means as the Commissioner may hereafter prescribe and require, in order that such canceled stamp or stamps can not be used. (T. D.; April 23, 1869.)

**Distiller defined.**

Every person who produces distilled spirits or who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits, or who may by any process of vaporization separate alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has, also, in his possession, or use, a still, is, under the terms of law, a distiller. (T. D.; April 22. 1869.)

**Lien on distillery for taxes.**

Every proprietor or possessor of a still, distillery, or distilling apparatus is made jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom, and the tax is a first lien on the spirits distilled. The distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the distillery is located, together with any building thereon, from the time said spirits are distilled are liable until the tax is paid. (T. D.; April 22, 1869.)

**Liabilities of manufacturers—Tax on sales.**

Section 4, act of March 31, 1868, declares that any person, firm, or corporation that shall manufacture by hand or machinery any goods, wares, or merchandise, or that shall be engaged in the manufacture or preparation for sale of any articles, or compounds not otherwise specially taxed, and whose annual sales exceed $5,000, shall pay a tax of $2 for every $1,000 in excess of $5,000. The only exceptions made by the law to this tax are in the cases of breadestuffs and unmanufactured lumber. (T. D.; April 30, 1869.)

**Distiller's bond—Legal requirements.**

Under the provisions of section 8, act of July 20, 1868, no distiller's bond can be approved unless he is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, or unless he files with the assessor, in connection with his notice, the written consent of the owner of

**Distiller's bond—Legal requirements**—Continued.

the fee, and of any mortgage, judgment creditor, or other person having a lien thereon, that the premises may be used for the purpose of distilling spirits subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other incumbrance, and that in case of the forfeiture of the distillery premises or any part thereof, the title of the same shall vest in the United States, discharged from any such mortgage, judgment, or other incumbrance. This instrument must be duly acknowledged and executed with all the formalities required in conveyances of real estate, and must be duly recorded before the same is filed with the assessor. (T. D.; April 22, 1869.)

**Gaging—Labor and expense.**

Section 53, act of July 20, 1868, provides that gagers' fees shall be prescribed by the Commissioner of Internal Revenue, "to be paid to the collector by the owner or producer of the articles to be gaged and inspected," and, furthermore, that "all necessary labor and expense attending the gaging of any article shall be borne by the owner or producer." Each distiller should keep the articles named in said section on hand. Traveling expenses do not seem to be included, and gagers can not be authorized to collect them as a part of the expense of gaging. (T. D.; April 22, 1869.)

**Exemption of distillers and brewers.**

The exemption of distillers and brewers from special tax as dealers extends only to sales of liquors of their own production made at the place of manufacture and in the original casks or packages to which the tax-paid stamps are required to be affixt. The liquors must be delivered directly to the purchaser or his agent from the distillery or brewery premises. Dealers in liquor, who sell in quantities less than 5 gallons, and also in quantities of 5 gallons and upward, must pay special tax both as wholesale and retail liquor dealers. (T. D.; April 22, 1869.)

**Redistillation on distillery premises.**

Under the act of July 20, 1868, a rectifier was defined as any person who rectifies, purifies, or refines distilled spirits by any process, and as redistillation was a purifying or refining of distilled spirits it was forbidden to be carried on within 600 feet of any authorized distillery. By the amendatory act of April 10, 1869, original and continuous distillation from mash, wool, or wash, thru continuous closed vessels and pipes until the manufacture thereof is complete, is not deemed to be rectifying. Therefore, a distiller may, after May 1, 1869, carry his product thru as many processes of distillation as he pleases, provided the process is continuous, the product of the distillation of the mash being carried thru continuous closed vessels and pipes until the final product is deposited in the receiving cisterns. This does not authorize the leaching of the spirits thru charcoal or any other substance, nor the purifying and refining of distilled spirits in any other mode than by redistillation. (T. D.; April 22, 1869.)

**Claim as informer.**

In the United States circuit court for the eastern district of New York, where an assistant assessor, in the discharge of his official duties, gained information of the failure of a party to pay special tax as a retail liquor dealer and was the first to file with the United States district attorney the information that led to the indictment, conviction, and imposition of a fine on such person, which was paid into the registry of the court, and said assistant made claim as informer, Judge Benedict *Held*, that he was the legal informer, section 179, act of 1864, as amended, and that he was entitled to his distributive share. (T. D.; June 5, 1869.)

**Liabilities of dealers and manufacturers.**

The law has imposed upon dealers and manufacturers of tobacco, snuff, and cigars no specific penalties for failure to make the inventories required by sections 78 and 94, act of July 20, 1868. It was quite as important for the dealers in manufactured tobacco and cigars to make these inventories as for the Government to have them made. Tobacco or cigars removed from the place of manufacture after stamps were furnished, without the proper stamps affixt and canceled, the law declares to be forfeited, under sections 71 and 89 of said act. The inventories are necessary to apprize the revenue officers of the fact that dealers have on hand goods which did not become liable to stamps until the time had expired for selling goods on hand at the time of the passage of the law, stamped. (T. D.; May 17, 1869.)

**Stamps issued unlawfully and fraudulently.**

Replying to an inquiry as to the legality of certain stamps issued by the warden of the western penitentiary of Pennsylvania to be affixt to boxes of cigars made in said penitentiary, instead of United States internal-revenue stamps, it is held, under section 69, act of July 20, 1868, that the Commissioner of Internal Revenue alone has authority to prepare suitable and special revenue stamps for the payment of the tax on tobacco and snuff, and that section 87 of said act requires him to issue like stamps for the payment of tax on cigars. All other stamps, by whom or whereseever issued, are held to be false, or fraudulent, or counterfeit, or mere semblances, without authority of law, and persons selling or offering to sell cigars stamped otherwise than as legally authorized are liable to the fines and penalties imposed by section 89, act of July 20, 1868. (T. D.; June 7, 1869.)

**Branding and stamping spirits.**

Dealers in spirits must not only see that all packages sent out by them bear the stamps and brands which are required by law to be placed on the same, but also that packages received by them from other dealers are properly stamped and branded before they receive the same. The plea of innocence on the part of dealers will not hereafter save from seizure spirits not properly stamped and branded. (T. D.; June 7, 1869.)

**Sale of forfeited cigars, etc.**

In the absence of any provision of law requiring tobacco, snuff, or cigars, when sold by order of the court, or under process of distraint, to be sold subject to tax, it is held that all such goods must be sold free of tax—that is to say, if the Government offers for sale tobacco, snuff, or cigars which are liable to be stamped, but which at the time of sale have no such stamps affixt, then it becomes the duty of the Government, and not of the purchaser of the goods, to affix the stamps. If the goods are not liable to stamps at the time of sale, but may become liable, then the goods are sold subject to the contingency, and the purchaser, having the goods on hand, and after the date, would be required to affix stamps before selling or offering the goods for sale. (T. D.; June 7, 1869.)

**Tobacco sold by United States marshal.**

The law having provided no means for furnishing United States marshals with stamps to be affixt to tobacco, etc., sold by order of court, the marshal must place his brand upon the goods so sold by him and give the purchaser a certificate setting forth the circumstances of the sale, with the description of the kind and quantity of the goods, and such other facts as will enable the purchaser to identify the goods in case of being called in question for lack of stamps, or any other informality in respect to packages, labels, caution notices, etc. (T. D.; June 7, 1869.)

**Pork packer's liability.**

The act of March 31, 1868, repealed sections 94 and 95, act of June 30, 1864, imposing taxes on manufactured goods, wares, and merchandise, with a few exceptions, and,

**Pork packer's liability**—Continued.

in lieu thereof, substituted section 4 of the act of 1868, under which it is held that persons engaged in the business of preparing pork and lard for sale, who slaughter hogs, cut up and pack pork, and render lard, packing the same in barrels, kegs, or otherwise, are something more than mere dealers in pork and lard. They are embraced within the definition given of a manufacturer, and are included among the persons, firms, etc., who are required to pay a tax on their sales in excess of $5,000 annually, inasmuch as they prepare these articles for sale and put them up in packages with their names or trade-marks. (T. D.; June 8, 1869.)

**Legacy tax—Remainder interest vesting before July 1, 1862.**

It is held that where the title to a remainder interest in personal property vested in expectancy on the death of a person dying before July 1, 1862, no legacy tax accrues under the internal-revenue laws where such interest vests in possession, whether before or after that date. (T. D.; June 22, 1869.)

**Lottery-ticket dealers' bond.**

Lottery ticket dealers in certain revenue districts having claimed that, having given the bond of the managers of one lottery and having paid the special tax imposed by paragraph 6 of section 79, act of June 30, 1864, as amended by section 9, act of July 13, 1866, they may sell policies of numbers in any and all other lotteries without other bonds, it is held, in conformity with regulations issued by the Secretary of the Treasury August 29, 1866, that if a lottery ticket dealer proposes to deal in the tickets or numbers of more than one lottery, he must procure and present to the revenue collector the separate bond of the managers of each different lottery in which he proposes to deal, and that he will not be allowed to deal in the tickets or numbers of any lottery whose managers have not furnished bond for him. (T. D.; June 22, 1869.)

**Communications to revenue officers.**

It is held that the declaration of a taxpayer respecting his income, made to an assistant assessor while in the discharge of his official duties, is not a privileged communication, and the assistant assessor has no right to withhold it in evidence. (T. D.; June 22, 1869.)

**Selling lands for taxes.**

When a collector is selling lands for taxes under the provisions of section 30, internal-revenue law of 1864, he should bid for and in behalf of the United States a sum equal to one-half the cash value of the property he is selling, and if no person bids more he should declare the property sold and purchased by him for the United States. (T. D.; June 26, 1869.)

**Releases from seizures.**

No property seized by an internal-revenue officer will be released by order from the Commissioner until the officer who made the seizure and the assessor and collector of the district have reported the facts in the case, with their recommendation, or have had ample opportunity to make such report or recommendation. (T. D.; June 12, 1869.)

**Tax on sales of liquors and merchandise.**

Referring to the mode of taxing the excess of liquor dealers' sales under paragraph 2, section 79, act of June 30, 1864, and the sales of liquor dealers under section 59, act of July 20, 1868, as amended by the act of April 10, 1869, it is held, after a careful examination of the law, that Congress intended by the act of April 10, 1869, to impose a tax on all sales in excess of the amounts specified at the proper rates, including not only units of hundreds and thousands, but fractions thereof, and hereafter assessments will be made on such understanding of the law. (T. D.; June 28, 1869.)

**Tobacconists peddling tobacco—Special tax.**

A person whose business it is to travel from place to place selling tobacco, snuff, and cigars, or tobacco, snuff, cigars, and other articles, is a peddler, and liable, therefore, to a special tax as such. A person can not, therefore, peddle tobacco, snuff, and cigars under a tobacco dealer's special tax receipt only. A peddler, therefore, is not only liable to a special tax as such, but if he sells manufactured tobacco, snuff, or cigars, his sales exceeding $100 per year, he becomes liable also to the special tax imposed by section 59, act of July 20, 1868, upon "dealers in tobacco." (T. D.; June 4, 1869.)

**Brewers and distillers liable to special tax.**

In relation to the liability of brewers to special tax as liquor dealers with respect to their sales of beer, ale, etc., of their own manufacture made at other places than the brewery, or when made thru agents, it is held that the act of July 20, 1868, as amended by the act of April 10, 1869, imposes the special tax of liquor dealers upon brewers and distillers who sell distilled spirits or malt liquors at any other than the place of manufacture, the word "place" being construed to mean the premises, lot, or inclosure occupied by the taxpayer in the prosecution of his business. (T. D.; June 15, 1869.)

**Agents of distillers or brewers—Special tax.**

The proviso to section 47, act of July 13, 1866, is repealed by the acts of July 20, 1868, and of April 10, 1869, in pursuance of which it is held that brewers and distillers may employ an agent simply to negotiate sales of liquors for them at any place, the sales to be made in the name of the distiller or brewer, and the liquors to be delivered directly to the purchaser or his agent from the distillery or brewery premises without incurring liability to special tax as liquor dealer; but if such agent receives the pay for the liquors sold in such manner he should be held liable as a dealer in liquors. (T. D.; June 15,1869.)

**Stamps used for distilled spirits.**

Where a wholesale dealer purchases spirits in the original packages as put up by a distiller or rectifier, properly stamped as such, no regaging or restamping is required. Where, however, he draws spirits from such original packages and fills other packages on his premises, the spirits must be regaged and the wholesale dealer's stamp affixt, and if such package contains 10 gallons or more it must also be branded and marked as required by section 47, act of July 20, 1868. Where a wholesale dealer purchases packages of spirits properly stamped and branded and sells them in the same condition, no other stamp is required. (T. D.; June 23, 1869.)

**Stamping packages of rectified spirits.**

A neglect or failure to comply with the requirements of section 25, act of July 20, 1868, as to gaging, inspecting, and affixing to every package of rectified spirits the proper stamp on the part of a rectifier or wholesale dealer renders him liable to the forfeiture of all spirits owned by him or in which he has an interest and to a penalty of $1,000. (T. D.; June 23, 1869.)

**Stock-on-hand stamp—Distilled spirits.**

All distilled spirits on hand November 1, 1868, and intended for sale, not then in bonded warehouse, were required to be returned to the collector and stamped with the stock-on-hand stamp, and such spirits not so stamped were liable to seizure and forfeiture after December 1, 1868. Where packages of such spirits were properly stamped and branded under the provisions of section 57, act of July 20, 1868, no other stamp or brand is required so long as such package remains unchanged. The absence of any stamp or brand required by law from any package of spirits containing more than 5 gallons works a forfeiture of the package and contents. This provision of section 57, act of July 20, 1868, is not in conflict with, but in addition to, the requirements of section 25 of that act. (T. D.; June 23, 1869.)

**Stamp for rectified spirits.**

If any authorized rectifier fills any package of rectified spirits on his premises for shipment, sale, or delivery without causing the same to be gaged or stamped with the stamp for rectified spirits, or any wholesale dealer fills any cask or package of distilled spirits without causing the same to be gaged and stamped with the wholesale dealer's stamp, he becomes liable to the penalty imposed by section 96, act of July 20, 1868, and to the forfeiture of all spirits owned by him or in which he has any interest; and if such packages exceed 5 gallons they also become forfeited. The local officers will be held responsible for the strict enforcement of all the provisions of the law in relation to this subject. (T. D.; June 23, 1869.)

**Stand casks—Change of packages.**

Referring to the practise, common to certain liquor dealers, of emptying packages of spirits which they purchase into stand casks which bear no stamp, mark, or brand, it is held that, altho the use of stand casks is not to be denied, the emptying of spirits from an original package into them, if containing 10 gallons or more, for sale is a change of package to all legal intents and brings the party making the change within the meaning of section 47, act of July 20, 1868. (T. D.; July 23, 1868.)

**Building associations—Special tax.**

Relative to the liability of a building association to special tax of broker or auctioneer whose president or secretary, by virtue of the provisions of the constitution and by-laws, sell at public auction the loans of the association, the opinion is held that no special tax is imposed under the internal-revenue law in respect to the specified business of selling at auction the loans of such association. (T. D.; July 22, 1869.)

**Spirits, imported and domestic—Stamp tax.**

Imported spirits in original packages bearing appropriate marks and brands indicating their foreign origin and character will be secure in transit wherever they may be sent; but when drawn into smaller and unmarked and unstamped packages they will be liable to detention, and the owner will be required to show by satisfactory evidence their real character, for all spirits must be presumed to be domestic and subject to the internal-revenue laws. The Commissioner has no power to enforce the application of section 25, act of July 20, 1868, to foreign spirits. (T. D.; July 23, 1869.)

**Brewers' sales at the brewery—Special tax.**

The clause in section 29, act of July 20, 1868, as amended by the act of April 10, 1869, is construed as exempting brewers from special tax as dealers in liquors with respect to their sales of liquors made at the brewery premises in the original casks or packages, to which the tax-paid stamps are required to be affixt. Brewers selling any other merchandise at their brewery should be assessed the proper special tax, but brewers who sell merely the refuse arising from the process of brewing for the sake of getting rid of it should not be required to pay special tax on such sales. (T. D.; July —, 1869.)

**Cigar and tobacco factories—Examination.**

Collectors should require each assistant assessor once a month to see that the manufacturer's sign and certificate are kept in the places designated, that the number of machines and instruments used in manufacturing tobacco and snuff and the number of men employed in making cigars correspond with the number set forth in the collector's certificate. He should note whether or not the factory is in full operation and all of its productive facilities employed, whether the manufacturer keeps the book required and makes daily entries of all purchases, sales, or removals. He should examine the goods to see if they are properly stamped before removal and if the stamps are properly fixt or canceled, keeping himself thoroly posted as to the enforcement of the law in every particular. (T. D.; August 7, 1869.)

**Importers' sales thru brokers—Special tax.**

It is held that importers of foreign goods or merchandise who make sales of their importations thru the medium of commercial brokers are regarded as dealers, or as dealers in liquor within the meaning of the internal-revenue laws, and as such they should be subjected to special tax upon the basis of all sales made by themselves or thru others, excepting only those sales made by or thru other wholesale dealers on commission. (T. D.; August 3, 1869.)

**Succession tax accruing on merger of life estate.**

It is held under section 135, act of June 30, 1864, as amended by section 1, act of March 3, 1865, that where a life estate is extinguished by an actual bona fide purchase for a valuable and adequate consideration the tax should be assessed upon only the difference between such consideration and the value of the estate. When, however, it is extinguished without any valuable consideration, as for instance by a voluntary deed of surrender, defined as a "yielding up of the estate for life or years to him who has an immediate estate in reversion or remainder, by which the lesser is merged in the greater," the tax should be assessed upon the entire value of the property. (T. D.; July 30, 1869.)

**Record of leaf tobacco sales necessary.**

The internal-revenue law is imperative in requiring every dealer in leaf tobacco to enter daily in a book kept for that purpose, under regulations of the Commissioner, all purchases, sales, and shipments of tobacco made by him. In requiring this record it is clear that the law contemplates a record of transactions other than that ordinarily made by auctioneers or dealers for their own convenience and information. This record is required in conformity with express regulations in order that there shall be uniformity of practise in different districts. (T. D.; July 30, 1869.)

**Claims for refunding—Limitations of time.**

An additional regulation relating to claims for refunding taxes prescribes that no claim or application hereafter made for refunding taxes will be entitled to consideration by the Commissioner of Internal Revenue unless the same shall be filed with the Commissioner within two years from the date of the payment of the tax, or in claims already accrued within two years from this date. (T. D.; August 3, 1869.)

**Stamps on spoiled tobacco—Redemption disallowed.**

The law requires all tobacco to be stamped before being removed from the manufactory or place where it is made. If the manufacturer sees fit to attach the stamps before he is actually required to do so, he does it at his own option and risk. The office of the Commissioner can not redeem stamps which have been once used nor guarantee such stamps as are affixt to packages of tobacco until it is sold and passes out of the hands of the manufacturer. When the stamps are once affixt to the packages they become a part thereof and can be neither again used by the manufacturer nor redeemed by the Government. (T. D.; August 12, 1869.)

**Business removal and indorsement of tax receipts.**

In cases of removal of dealers, manufacturers, hotel keepers, and others whose liability to tax depends on the amount of their sales, products, or gross receipts, the assistant assessor or collector of the district from which the removal is made should indorse on the special tax receipt the fact of the discontinuance of business at the place mentioned therein, as well as the amount of sales, products, or gross receipts of the taxpayer to the date of removal, in order that when presenting the same to the assistant assessor and collector of the district to which he removes for registry, as provided by section 76, compilation of internal-revenue laws, they may be satisfied that he has really removed his business from the district where it was formerly carried on and is not merely establishing a branch of the same in their district;

**Business removal and indorsement of tax receipts—Continued.**

and also that they may determine any liability which may accrue by reason of the amount of his subsequent sales, products, or gross receipts. (T. D.; August 12, 1869.)

**Signature of collector required on spirit stamp.**

It is decided that hereafter a fac simile die to impress their name upon stamps for distilled spirits can not be lawfully used by collectors. The regulations require the actual signatures of collectors on such stamps. This rule revokes all authority allowing the use of fac simile stamps of collectors' names. (T. D.; August 14, 1869.)

**Deductions from returns—Wholesale liquor dealers.**

It is understood that certain assistant assessors decline to allow deductions for taxable purposes from the returns of wholesale liquor dealers of their sales made thru other wholesale liquor dealers on commission, and therefore collectors are advised that the provision of law which applies in this particular to the returns of wholesale dealers is considered as applying equally to wholesale liquor dealers, who are regarded in this respect as upon the same footing with wholesale dealers, and should hence be allowed the same deductions from their returns of sales. (T. D.; August 5, 1869.)

**'Expense of business" and taxable income.**

The Commissioner, having under consideration the report that railroad companies, canal companies, bankers, insurance companies, and other corporations required by law to withhold and pay over to the United States a tax of 5 per centum upon dividends, interest, coupons representing interest, surplus, and contingent funds, profits used for construction, etc., are accustomed to treat the amounts thus withheld and paid as an expense of business and to deduct them in all returns where expenses of business are deductible, held that said practise is erroneous and should not be allowed. The amounts thus paid are not an expense of business, and the returns for taxable purposes should not be accepted until the assessor is convinced that no deduction of this kind has been made. (T. D.; August 10, 1869.)

**Special tax of insurance agent's subordinates.**

If a clerk or other employee, the subordinate of an insurance agent, solicits risks, negotiates insurance, or in other manner acts as an insurance agent for such agent, he should be held liable to the proper special tax under paragraph 28, section 79, act of June 30, 1864. (T. D.; July 17, 1869.)

**Tobacco stamps—Cancellation.**

It was not the intention of the law that the usual notice as to the sales of tobacco and the cancellation of stamps required by section 68, act of July 20, 1868, should convey the impression that any dealer who may be the proprietor of a brand of tobacco is the real manufacturer thereof when in fact such is not the case. Where the real manufacturer inserts the name of the proprietor in the label instead of his own the insertion should read. "Manufactured for ———, at factory No. —, etc." As regards the cancellation of tobacco stamps, the manufacturer's name must in all cases be written upon the stamp, and in no case can the name of any other party be used. (T. D.; July 29, 1869.)

**Vendor's lien—Stamp tax.**

In relation to the stamp tax on notes given for the purchase money of an estate, secured by a vendor's lien in the deed of conveyance, it is held that such a lien should be stamped at the rate of mortgages in addition to the conveyance stamps. In that case the notes need not be stamped which are secured by it; but, in general, notes given for purchase money are liable. (T. D.; August 13, 1869.)

**Agents selling agricultural implements.**

Under the exemption proviso to paragraph 32, section 79, compilation of internal-revenue laws, the authorized agents of manufacturers of agricultural implements may sell or negotiate sales of the same at places other than the place of manufacture,

**Agents selling agricultural implements**—Continued.

without liability either as dealers, peddlers, or commercial brokers, provided they sell exclusively at wholesale—that is, to persons who buy to sell again, and not to use. (T. D.; August 12, 1869.)

**Manufacturer of medicinal bitters—Liabilities.**

A manufacturer of medicinal bitters, such as are liable to stamp tax, is not to be regarded as a rectfier, unless at the same time he purchases raw or unrectified spirits and rectifies them before using the same in the manufacture of bitters. In case he rectifies the spirits he uses, he becomes both rectifier and manufacturer, and is liable for both taxes. (T. D.; August 23, 1869.)

**Liability and definition of banker.**

A person whose business it is to negotiate purchases or sales of stocks is a banker within the meaning of paragraph 1, section 79, act of June 30, 1864, as amended, if he has a place of business where he receives from others the stocks the sale of which he negotiates, or where money is either advanced or loaned on stocks. Such a person is liable to the penalties imposed by section 110, act of June 30, 1864, for failure to make return for taxable purposes, and payment as banker. (T. D.; August 17, 1869.)

**Change of firm and special tax.**

Every change of firm whereby a former partner retiree from the same, or a new partner is admitted, constitutes in contemplation of law a new law firm liable to a new special tax for the unexpired portion of the year for which the same has been paid by the original firm, which should be assessed from the first day of the month in which the change occurs. There is no provision in the law by which a person retiring from business during the year for which he has paid the tax can transfer his receipt to the person succeeding him. (T. D.; September 1, 1869.)

**Penalty for fraud—Act of 1868.**

The United States district court for the western district of Pennsylvania, in the case of United States *v.* William McKim & Co., the distiller having failed to construct and arrange his distillery apparatus in accordance with section 16, act of July 20, 1868, and action being brought to recover the penalty of $1,000, alleged to have been incurred under section 96 of said act, *Held* That a person who engages in the manufacture of distilled spirits must comply with all the requirements of the revenue laws, and unless he does so, has no authority to manufacture the same. The distiller incurred the penalty in question by omitting to do what the law commanded, and this without fraudulent intent; but it was also held that, to incur the penalty demanded by section 96, act of 1868, it is not necessary that the offender shall act with intent to defraud the revenue. (T. D.; September 4, 1869.)

**Interest on railroad bonds.**

It is held that, for purposes of taxation, the interest on bonds of a railroad company, if paid by another company under contract, must be returned for taxation by the company issuing the bonds, this rule being in pursuance of section 122, act of June 30, 1864, as amended by section 9, act of July 13, 1866. (T. D.; August 27, 1869.)

**Seizure of tobacco—Sufficiency of grounds.**

While it is deemed important that every box of tobacco, in addition to stamps indicating the payment of the revenue tax, should have all the brands and marks which the law requires and in the precise manner prescribed in the law, printed, marked, or pasted thereon, that all the facts and information deemed by Congress requisite for complete identification should be upon every box or other package, yet it is not held as a good ground for seizure where only slight irregularities are discovered. (T. D.; August 27, 1869.)

**Survey of distilleries.**

The survey required by section 10, act of July 20, 1868, is to be made of every distillery registered or intended to be registered for the production of spirits, and of every still hereafter set up and intended to be used for that purpose. The assessor and the person designated to aid him are to estimate and determine the "true producing capacity" of each distillery and make report thereof in writing. The "true capacity" of a distillery is not limited to what the distiller may produce by following a particular course which he has marked out, but what may be produced under favorable circumstances. (T. D.; August 26, 1869.)

**Assignment of mortgages—Stamp tax.**

Upon every assignment of a mortgage a stamp tax is required equal to that imposed upon a mortgage for the amount remaining unpaid. The tax is required upon every such transfer in writing, whether there is a sale of the mortgage or not. The fact that the transfer is made by order of court does not relieve it any more than in the case of a deed made under a judgment. It would be proper to stamp it either in the district where the property is situated or where the holder resides. (T. D.; August 19, 1869.)

**Cancellation of new tobacco stamps.**

With reference to the blank space in the new tobacco stamps and as to whether said space should be filled by the name of the manufacturer or by that of the proprietor of the tobacco, it is held that the tax is to be paid by the manufacturer primarily, such being the theory of the law; and, therefore, the manufacturer, not the proprietor, is required to affix and to cancel the stamps. Proprietors are not required to give bonds. They can not legally buy stamps, nor are they required to either affix or cancel them. The writing of the manufacturer's name in the blank space in the tobacco stamps is a part of the necessary cancellation of the stamps for which the manufacturer alone is responsible. (T. D.; September 13, 1869.)

**Tobacco stamps, old and new on the same package.**

Where the leading tobacco stamps of the old issue are already attached to the heads of boxes of tobacco and the smaller stamps of the same issue are not to be procured by the manufacturer, no objection will be made by the Commissioner of Internal Revenue to the use of the new stamps in making out the complement and fully stamping the packages according to the amount of tax payable on each package. All leading stamps, representing the higher denominations or serial numbers, when applied to packages, must be attached as prescribed in the regulations. (T. D.; September 13, 1869.)

**"Stand casks" disallowed.**

The use of "stand casks" by either wholesale or retail liquor dealers should not be allowed. The impracticability of using them is apparent and must of itself put them out of use. To allow their use would require that they be gaged and stamped under section 25 and marked or branded under section 47 at every filling, or to be subject to forfeiture under section 57, act of July 20, 1868. The whole tenor of the law is that all packages of spirits held for sale must be protected from seizure by the stamps and marks or brands. (T. D.; September 10, 1869.)

**Justice of the peace—When exempt and when liable.**

The exemption of justices of the peace from special tax relates exclusively to those acts which it is their duty and privilege to perform in their official capacity, such as the preparing and issuing summons, writs, subpenas, certificates, jurats to affidavits for depositions, or acknowledgments to deeds, bonds, or other instruments taken by them, or for trying causes in their official capacity. When, however, a justice of the peace makes it his business, or a part of his business, to draw deeds, bonds, leases, mortgages, wills, or to fill out blanks for the same, or to examine titles

**Justice of the peace—When exempt and when liable**—Continued.

to real estate, he becomes liable to special tax as a conveyancer if he has not already paid tax as lawyer or as claim agent. (T. D.; September 21, 1869.)

**Imported spirits changing packages.**

It has been uniformly held that the provisions of the internal revenue law are applicable to domestic spirits only and that a party making a change of package of imported liquors may do so without being subject to any part of the requirements of the internal revenue laws as to stamping, marking, or branding. But, in thus voluntarily separating the spirits from the importation marks that show its foreign origin, the party does so at the risk of having it seized under section 57, act of July 20, 1868, and the burden of proof will then be on him to establish its true character. Imported spirits when rectified in the United States loses its foreign identity and is liable as domestic spirits. (T. D.; September 23, 1869.)

**Withdrawal of spirits sold on distraint.**

In response to the inquiry as to how spirits in bonded warehouses sold by a collector on distraint for unpaid taxes are to be withdrawn from the warehouse, the Commissioner holds, in so selling, the collector simply vests the purchaser with the interest that the distiller has in the spirits sold, and the purchaser has the right to allow the spirits to remain in bond as the distiller might have done, and to withdraw the same on the usual form of entry for withdrawal on payment of the tax. (T. D.; September 30, 1869.)

**Farmers taxed as produce brokers.**

Farmers whose occupation it is to sell the products of their farms away from the place of production and at a store or stand are liable to special tax as produce brokers. However, occasional acts do not create a liability to special tax, and, as it is believed to be the policy of the law to place as few restrictions as is consistent upon agricultural producers, the statute should be construed liberally. (T. D.; September 30, 1869.)

**Lawyers having two distinct offices.**

Altho a lawyer who pays special tax in any one district may, without thereby becoming liable to additional special tax, prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any State or give legal advice in relation to any cause or matter in any place within the United States, yet he would be liable under the law to pay a separate special tax for each office, or other place of business, at which he does the business of a lawyer. (T. D.; September 29, 1869.)

**Employees peddling—Tax receipt in employer's name.**

Where a person is employed to peddle for another, such person having no interest in the profits arising from such business further than his pay is concerned, the employer may be regarded as the peddler, but every person so peddling should, of course, be able to show a special-tax receipt in his employer's name and to furnish evidence that he is actually in the employ of the person in whose name the special-tax receipt is issued. (T. D.; June 26, 1869.)

**Persons mixing spirits or liquors—Liabilities.**

Having reference to the provisions of section 1, act of April 10, 1869, defining rectification, and especially to the clause relating to compounding liquors for sale, it is held that to mix distilled spirits, wines, or other liquors with any material does constitute rectification if by such mixing a spurious, imitation, or compound liquor is manufactured. To mix any material with distilled spirits, wine, or other liquor which does not result in producing either a spurious imitation or compound liquor is not rectification. Therefore, the mixing of liquors identical in kind, as known to the trade, does not constitute rectification; but dealers mixing spirits,

**Persons mixing spirits or liquors—Liabilities**—Continued.

wines, or other liquors of the same kind, in changing packages, must do so in a way that shall enable them to comply with section 47, act of July 20, 1868. (T. D.; September 16, 1869.)

**State agents for sale of liquors liable to special tax.**

It is held that agents who, under the liquor law of Massachusetts, are appointed to sell liquors within certain limitations and who are paid salaries by the several municipalities, the receipts for their sales being accounted to such municipalities, are liable to special tax as liquor dealers under the internal revenue laws. Otherwise it would seem to be within the power of State legislation to cut off the revenues of the Federal Government. (T. D.; October 9, 1869.)

**Exemption of fruit brandy—Special tax-paid stamp.**

The interests of the Government and the necessities of the business of distillers of brandy from fruit requiring a further exemption of such distillers from the provisions of the law than heretofore prescribed under section 2, act of July 20, 1868, it is now ordered that they be exempted from so much of the provisions of section 23 of said act as requires them to put up the brandy they distil from fruit in casks of not less capacity than 20 gallons, wine measure, and that, until otherwise ordered, they be allowed to put up such spirits in packages of 10 proof gallons or upward. (T. D.; October 8, 1869.)

**Prevention or detection of frauds—Special tax-paid stamp.**

Under the authority conferred in section 101, act of July 20, 1868, with a view to the better collection of the tax derivable from brandy distilled from fruit, and the further prevention or detection of frauds on the revenue, a special stamp for fruit brandy has been issued for packages of 10 gallons, with coupons attached for use on packages containing more than 10 gallons and not in any case exceeding 19 gallons—the stamp now in use still applying to all packages of 20 gallons or upward. (T. D.; October 8, 1868.)

**Liabilities of liquor dealers selling as peddlers.**

A person who has paid the special tax as a liquor dealer with respect to a designated place would become liable to an additional and separate special tax as a dealer in liquors, if he also at the same time sells in the manner of a peddler of the first, second, third, or fourth class, as the case may be. Dealers in liquor can not, under the payment of one special tax, sell at two or more places, nor can they delegate to agents the right of exemption beyond the place stated in their tax receipt. (T. D.; October 20, 1869.)

**Cattle broker's liabilities—Return of sales.**

In making return of such of his sales as are in excess of $10,000 per year, a cattle broker should be required to include all sales in excess of that amount, whether made thru agents or not, but may enter upon said returns as a deduction from the gross amount such sales as he may be able to satisfy the assessor have been already taxed one-tenth per cent, upon proof that said tax has been actually paid, giving in full the name and place of business of any person who, acting as his agent, has been assessed the said tax, in order that the assessor to whom said return is made by the principal, may ascertain by correspondence if the deductions claimed may be allowed. (T. D.; October 18, 1869.)

**Bonds of distillers renewable.**

In pursuance of section 7, act of July 20, 1868, assessors of taxes are instructed that hereafter every distiller shall be strictly required to give a new bond on the first day of May in each year if he intends to continue the business of distilling, and that, in default of such bond, the distillery shall be closed and stopt on the second day of May. Every distiller should be served with a notice of this ruling. (T. D.; October 28, 1869.)

**Liabilities of publishers as manufacturers.**

The definition of a manufacturer, as given in paragraph 31, section 79, act of June 30, 1864, is broad enough to include publishers of books, magazines, pamphlets, newspapers, reviews, and other similar publications. They are held as merchandise or articles of traffic, and the makers, producers, or publishers are manufacturers within the meaning and intent of the law, however they may be classed in a commercial sense. Under the act of March 31, 1868, following the act of 1864, it is held that publishers of books and publishers of newspapers who furnish the matter to be printed or published, and who receive the profits derived from the sale of such publications, are liable to make returns quarterly of the amount of their sales and to pay a tax of $2 per $1,000 on the excess of $1,250. (T. D.; November 2, 1869.)

**Express carriers—Special tax.**

A person, firm, or company engaged in carrying or delivering money, valuable papers, or any article for pay, on a vessel engaged in the United States coasting trade, is liable to special tax under the act of June 30, 1864, section 79, paragraph 50, as amended by the act of July 13, 1866, even tho such vessel is regularly enrolled and licensed and does not run on a continuous route. The tax on gross receipts is, under section 104, imposed only on persons carrying on an express business. (T. D.; October 7, 1869.)

**Law relating to scraps, clippings, and waste tobacco.**

In relation to the sale by cigar manufacturers of their stems, scraps, and clippings, the law requires that they shall be put up for sale in packages of 2, 4, 8, and 16 ounces each, and this requirement must be strictly obeyed where scraps are sold for consumption or use, or sold to parties who are not manufacturers of tobacco. The Commissioner of Internal Revenue has ruled that a manufacturer of cigars may sell his scraps and sweepings in bulk, without stamping, to a manufacturer of smoking tobacco for purposes of manufacture. (T. D.; November 4, 1869.)

**Distiller's liability after expiration of tax receipt.**

Having reference to distillers who have not paid special tax for the current year, but who are allowed in many districts to sell their late products without assessment, it is held that a distiller can not sell his product in anyway without paying tax therefor after his tax receipt has expired. So far as the distiller's sales in such case are made thru dealers on commission the distiller would incur no liability on the sales. (T. D.; November 4, 1869.)

**Standing casks prohibited—Retail dealers.**

The use of standing casks by liquor dealers is prohibited. This prohibition is not intended to include vessels containing less than 5 gallons, such as bottles, decanters, and demijohns used by retail dealers. Still, an unnecessary number of such vessels found on the premises of a retail dealer will be a circumstance sufficiently suspicious to call for a close observation of the premises. (T. D.; September 30, 1869.)

**Farmers as produce brokers.**

Farmers are exempt from special tax when selling their produce at the place of production or in the manner of peddlers, but selling at the market place, even tho a different stand or station is taken every day, is not regarded as selling in the manner of a peddler. The farmer who is in the habit of going to the market place regularly twice a week and selling his produce thereby makes it his business so to sell and should be required to pay special tax accordingly. (T. D.; November 6, 1869.)

**Cordials and bitters made from distilled spirits.**

It is held that the making of any preparation containing distilled spirits, and susceptible of being used as a beverage, is in fact rectification. If the preparation is an imitation wine, tho sold by any other name, it must be put up and taxed under

**Cordials and bitters made from distilled spirits**—Continued.

section 48, act of July 20, 1868. If not an imitation it is treated as rectified spirits and must be put up, gaged, and stamped under section 25, act of July 20, 1868. (T. D.; November 20, 1868.)

**Apothecaries, when liable to liquor dealer's tax.**

Under the amendatory act of April 10, 1869, apothecaries or others who sell "Hostetter's Bitters," or any similar compound which contains a large percentage of alcohol and which can be used as a beverage, in quantities of 5 gallons or upward at one sale, should be liable to special tax as wholesale dealers in liquor without regard to the fact that such liquors may be put up in bottles and sold by the case. (T. D.; September 14, 1869.)

**Brewer's sales at retail.**

Under the act of July 20, 1868, as amended, brewers are liable to special tax as liquor dealers with respect to their sales of beer or ale when made at any place other than the brewery premises, and in the original casks or packages to which the tax-paid stamps are required to be affixed. (T. D.; October 26, 1869.)

**Liability to special tax—Sales of leaf tobacco.**

A person who simply purchases leaf tobacco in this country on commission, or otherwise, and ships it abroad to be sold there, is liable only as a produce broker. If, however, a sale is effected here, the fact that it is afterward shipped to the purchaser abroad does not relieve from tax as a dealer in leaf tobacco. Such a dealer is one who sells or offers to sell, and the sale or offer to sell, must be in this country to create liability as such. (T. D.; November 26, 1869.)

**Signature of collectors to registered tobacco stamps.**

It is held that the collector's name in his own handwriting must appear in every registered stamp issued from the office of any collector, and the blanks in the body of the stamp must be filled with the number of the district, the State, and the precise date of the issue. The blanks in the stubs must be filled in such a manner as to preserve a perfect record of the following facts, viz, the person to whom the stamp corresponding was issued, number of his factory, date when issued, and the collector by whom the stamp was issued. Without this exact correspondence between the blank requirements of the stub and the body of the stamp, the object sought to be attained by the use of registered stamps would be well nigh defeated. (T. D.; October 22, 1869.)

**Deputy's signature permissible.**

All registered tobacco stamps must be signed by the collector, unless special permission is obtained from the Commissioner of Internal Revenue that he may be relieved by a deputy collector in case the number of stamps sold in any district may be so great as to render it impossible for the collector to discharge his other duties and sign all the stamps required to be issued, or some other contingency should make indispensably necessary a deputy's assistance. (T. D.; October 22, 1869.)

**Dealers rendering, clarifying, and packing lard.**

Where parties simply buy lard and sell it in the condition in which they buy it, without putting it thru any process of manufacture or preparation for sale, and without putting it in packages with their own names or trade-marks thereon, they are not liable to the tax imposed in section 4, act of March 31, 1868; but if they render or clarify the lard, or put it up in packages with their own names or trade-marks thereon, and their sales exceed $1,250 per quarter, they are liable to tax under that section. (T. D.; November 15, 1869.)

**Tobacco manufacturer selling refuse, etc., without tax.**

Answering the question whether under certain instructions a tobacco manufacturer may be allowed to sell in bulk, without payment of any tax thereon, the scraps or waste and sweepings of his factory to another manufacturer, it is held that upon an application made by any manufacturer to the assessor of his district, accompanied by a suitable voucher that the party to whom he proposes to sell has given bond as a manufacturer, the assessor is authorized to give a permit, limited to his district, for the removal of such scraps, etc., in bulk without the payment of tax. (T. D.; December 6, 1869.)

**Fee or reward for revenue officers illegal.**

Referring to the practise, that had prevailed to a considerable extent among revenus officers, of charging for their services in making out papers which the law requires taxpayers to furnish, it is held that said practise can not be sanctioned nor permitted, and that all internal-revenue officers who have taken money for the services alleged and who refuse to refund the same will be at once dismissed from the revenue service. (T. D.; December 9, 1869.)

**Liability of manufacturers of medicinal bitters.**

With regard to the privileges and liability of manufacturers of medicinal bitters in case they are required to affix revenue stamps, this office holds that the purchaser of an original package containing any number of gallons of medicinal bitters, or other patent or proprietary medicine, who should break such package and repack into phials, bottles, or other small inclosures and affix the manufacturer's labels, showing that the article was a patent or a proprietary article, or should affix a label bearing his own name and trade-mark, and then expose or offer such package for sale, he would be liable to affix revenue stamps according to his retail price of such packages with their contents. (T. D.; December 13, 1869.)

**Medicinal bitters in original packages.**

This office does not so construe the law, and will not so endeavor to enforce it, as to prohibit the manufacturer of medicinal bitters from selling his original packages, whatever may be the capacity of such packages, or to prohibit purchasers from breaking original packages and putting the contents into phials or bottles for sale, if he wish to do so. (T. D.; December 13, 1869.)

**Revenue stamps on medicinal bitters.**

As to affixing revenue stamps to packages of medicinal bitters, the manufacturer of such bitters must determine the denomination and value of the stamps to be affixt to each package by the price at which he sells a single original package. The price of a single original package or inclosure is the measure by which to determine the amount or value of the stamps to be affixt. (T. D.; December 13, 1869.)

**Rectifier taxable as liquor dealer.**

Distillers and brewers can sell their product at the place of manufacture so long as they sell in the "original casks or packages to which the stamps are affixt" without payment of tax as liquor dealers; but there is no other provision allowing such exemption. It would seem, therefore, that a rectifier of his own distilled product can not sell without paying tax as a liquor dealer at any place. (T. D.; December 9, 1869.)

**Dealers in alcoholic compounds—Tax as liquor dealers.**

Bitters and other alcoholic compounds put up and sold as medicines and properly stamped as such under Schedule C of the revenue law should be treated as medicines, and persons selling the same should not be required to pay special tax as liquor dealers. Persons selling bitters or other alcoholic compounds put up and stamped as rectified spirits should, of course, be held to tax as liquor dealers. Any previous ruling that may be inconsistent with this is hereby revoked. (T. D.; December 15, 1869.)

**Stand casks not prohibited for imported liquors.**

The prohibition of the use of stand casks by wholesale liquor dealers is not intended to apply to imported liquors as well as to domestic liquors. It does not apply to imported liquors because they are not in themselves subjects of internal-revenue tax. The dealer should be apprized that in separating his imported spirits from the importation marks showing their foreign origin he does so at the risk of having them seized under section 57, act of July 20, 1868, and then the burden of proof will be upon him to establish their true character. (T. D.; December 20, 1869.)

**Admixture of imported spirits—Rectification.**

The distinction made between domestic spirits and foreign spirits holds only when the latter are absolutely free from admixture either with domestic liquor or with any other material after their arrival in this country. In case of being mixed in this country in any manner to constitute rectification under section 1, act of April 16, 1868, such mixt foreign spirits are to be regarded as rectified domestic spirits in all respects, and the mixer must have paid the rectifier's special tax. (T. D.; December 20, 1869.)

**Gager's instruments prescribed.**

The instruments in use for gaging casks in the internal-revenue service are a caliper, a bung rod, a head rod, and a sliding scale. Heretofore no standards have been prescribed, but owing to the lack of uniformity in these instruments as used by United States gagers the Commissioner of Internal Revenue decided to prescribe a standard in each case, and accordingly manufacturers of these instruments exhibited the merits of their several makes to him, from which choice should be made, at his office January 15, 1870. (T. D.; December 24, 1869.)

**Absence of rectifier's name on package cause for suspicion.**

It is held that the absence on a barrel of spirits, stamped with a wholesale dealer's stamp, of the mark showing the name of the rectifier, the original inspection, and the number of the rectifier's stamp on the barrel from which the package purports to be taken while not a sufficient cause for the seizure of the spirits, but it is sufficient cause for inquiry into the antecedents of the spirits, and if they are found to be at all suspicious seizure will be made and the matter investigated, and his subsequent conduct will be governed by the facts and circumstances ascertained. (T. D.; October 15, 1869.)

**Forfeiture under act of July 20, 1868.**

In the United States district court for the southern district of New York, Judge Blatchford, charging the jury, held, *Held*, That a forfeiture of certain barrels and the stock of spirits may occur under section 96, act of July 20, 1868, where a wholesale liquor dealer knowingly and wilfully omits to efface or obliterate spirit stamps at the time when he empties the barrels. The phrase "knowingly and wilfully" means not that he knew the law and wilfully violated it, but that he knew the fact that the stamps were not effaced and omitted to obliterate them. Forfeiture may be had, also, of said barrels and spirits under section 96 if the wholesale liquor dealer omitted to make entries in his liquor dealer's book as required by section 45 of said act. (T. D.; January 1, 1870.)

**Bonds of cigar manufacturers for all employees.**

Section 82, act of July 20, 1868, requires every cigar manufacturer to give bond in such penal sum as the assessor of the district may require, no less than $500, with an addition of $100 for each person proposed to be employed by him in making cigars, conditioned that he will not employ any person to manufacture cigars who has not been duly registered as a cigar manufacturer. In pursuance of this provision of law assessors are instructed to require manufacturers to give bond for all persons whom they employ in making cigars, whether as strippers, bunchers, or persons technically known as cigar makers. (T. D.; January 8, 1870.)

**Earnings of corporations—Five per cent annual tax.**

Construing section 120, act of June 30, 1864, as amended by act of July 13, 1866, imposing a tax of 5 per cent annually upon the dividends and upon all undistributed sums or sums made or added during the year to the surplus or contingent funds of banks, insurance companies, etc., it is held that a bank or other corporation included in said section is not allowed to hold its profits in reserve, even if the same are not carried to what is known technically as a "fund," without returning and paying tax thereon as often as once each year, provided that profits so returned and tax paid need not be again returned until they are distributed, when the tax already paid may be deducted from the total amount of tax on such dividend. The tax is due on the entire net earnings or profits whether they are distributed or not. (T. D.; December 20, 1869.)

**Punishment for refusal to pay special taxes.**

It is held that under section 73, act of June 30, 1864, as amended by section 9, act of March 2, 1867, while for a refusal to pay special taxes a court may not sentence to imprisonment lawyers and physicians who, having no property that can be distrained, wilfully and defiantly refuse to pay, yet it can sentence them to pay a penalty of not less than $10 nor more than $500. The court does not sentence to the payment of the tax and penalty. It simply imposes the penalty, the payment of which is not a payment of the tax, the remains to be collected by distraint or civil suit if property can be found. (T. D.; January 8, 1870.)

**Leaf tobacco dealer—Special tax.**

The law defines a dealer in leaf tobacco as one whose business it is for himself, or on commission, to sell or offer for sale leaf tobacco. The farmer or planter selling tobacco of his own production is not required to pay the special tax imposed upon persons trafficking or trading in leaf tobacco or in distilled spirits; nor is the manufacturer who purchases leaf tobacco which he uses or consumes in the manufacture of tobacco, snuff, or cigars required to pay the tax. The law was intended to reach those persons only who make a business of selling leaf tobacco. (T. D.; January 10, 1870.)

**Leaf tobacco dealers and agencies taxable.**

Mere buying leaf tobacco does not constitute a dealer in leaf tobacco within the definition of the law. The liability is made to depend upon sales. Every person who sells or offers for sale leaf tobacco, for himself or on commission, is a dealer, and liable for special tax. Every commission merchant, and every person who, as factor, agent, or consignee, sells tobacco on commission, is liable for this tax, and will be required to pay special tax as such; and the same rule is applicable equally to the sales of distilled spirits when such sales are made for the principal thru the agency of others. (T. D.; January 10, 1870.)

**Merchandise seized under revenue laws.**

Altho the regulations of the Treasury Department authorize the storage only of dutiable, unclaimed, or seized goods and merchandise in bonded warehouses, merchandise seized for violation of the internal-revenue laws may be stored in such warehouses by special authority of the Department where no other safe and suitable place of storage can be secured. (T. D.; September 1, 1869.)

**Farmers' liability to special tax as brokers.**

The ruling under which a person who makes it his occupation to sell the products of his own farm from a stand or stall is required to pay a special tax as a produce broker should be construed with the utmost liberality, giving him the benefit of all doubts respecting his liability. It can not ordinarily be said to be the occupation of a farmer to sell his products. It is his occupation to raise them. The selling is an incident to the production. It is only when he makes such selling his regular and constant business that he should be required to pay the special tax. (T. D.; January 10, 1870.)

**Storekeepers assigned to serve on Sunday.**

As to the rule of the Bureau of Internal Revenue in regard to the compensation of storekeepers for services rendered on Sundays, it is held that as a general rule storekeepers are not supposed to be on duty on that day or night, and are therefore not entitled to pay for Sundays. The exception to this rule is that when, in the opinion of the collector, the services of the storekeeper are requisite on Sunday, or Sunday nights, in consequence of the exposed or hazardous condition of the warehouse the storekeeper assigned to duty should receive the compensation allowed for other days and nights. (T. D.; January 28, 1870.)

**Leaf tobacco sales—Special tax on business.**

The special tax of $25 imposed on leaf tobacco by section 59, act of July 20, 1868, is a tax on the business, and every person who sells, or offers for sale for himself, or on commission to the extent of making such sales a business, is held to be liable to pay this special tax. The act of July 20, 1868, does not repeal paragraph 2, section 79, act of June 30, 1864, nor is the proviso of that section, that, in estimating the amount of sales for the purposes of said section, any sale made by or thru another wholesale dealer on commission shall not be again estimated, inconsistent with any of the provisions of section 59, act of July 20, 1868. Prior to the passage of the last-named act, dealers in leaf tobacco were assessed as wholesale dealers and, in estimating the amount of their sales, were not required to include the sales made for them on commission. (T. D.; February 7, 1870.)

**Interest paid not deductible from income.**

It is held that interest paid on money which is invested in business or in real estate from which no income is derived is not deductible from taxable income. Interest thus paid may be offset against interest received or falling due to taxpayer. (T. D.; February 3, 1870.)

**Inventories of returns for taxes.**

The annual inventories required of every manufacturer of tobacco, snuff, and cigars; the keeping of daily entries required to be made of all purchases and sales; the monthly returns of goods of whatever description manufactured, sold, consumed, or removed, etc.; the keeping of distinct accounts of every manufacturer of the number, amount, and denominate values of the stamps sold to him, which are required to be kept by the collector, are each so many means furnished to the assessor for determining whether the manufacturer has paid the Government all the tax to which he was liable, and, if not, to furnish him with the means of computing approximately the amount of tax omitted to be paid, and for which an assessment should be made. If the inventories disclose deficiencies or discrepancies, not satisfactorily explained, the monthly returns should be examined and an assessment for the deficiencies should be made under section 5, act of 1868. (T. D.; February 10, 1870.)

**Brewer's sale of stamps illegal and fraudulent.**

In view of the fact that all stamps purchased by brewers are sold to them for use in their business exclusively, it is held that a brewer's sale of such stamps, unauthorized by the Bureau of Internal Revenue, would be not only illegal, but fraudulent. (T. D; February 10, 1870.)

**Traffic in internal revenue stamps.**

Under the law, as to stamps for tobacco and snuff and for cigars, according to sections 67 and 87, act of July 20, 1868, and as to stamps for fermented liquors, as provided by section 52, act of July 13, 1866, the Commissioner is authorized to furnish only such stamps to collectors, who alone are authorized to sell them and are prohibited from selling them to other than brewers, manufacturers, importers, and such other persons as are required by law to affix stamps to beer, tobacco, snuff, or cigars; and brewers are, by section 53, act of July 13, 1866, expressly prohibited from obtaining

**Tariff in internal revenue stamps—Continued.**

their beer stamps otherwise than from the collector of the district in which the brewery, or brewery warehouse is situated, unless the collector shall fail to furnish them on application. It is, in other words, unlawful for any other person than a collector to sell revenue stamps for distilled spirits, fermented liquors, tobacco, snuff, or cigars. (T. D.; February 10, 1870.)

**Restrictions on sales of revenue stamps.**

The legal restrictions put on the sale and purchase of revenue stamps are prescribed for the obvious purpose of aiding in the ascertainment of the true product of the articles upon which the stamps are used, and experience has shown them to be useful for that purpose, the record of the sales of stamps to each producer being compared with the reports of production required from him. (T. D.; February 10, 1870.)

**Mortgages stamped according to amount secured.**

Relative to stamp taxes on mortgages, it is held that they should be stamped according to the amount expressly secured by them. It would be impossible to carry out the law on the subject, if it were necessary to go behind the instruments themselves and investigate the business affairs of the parties, to ascertain if something was intended different from what was expressed. It might require a committee of examination and a long course of operations before a single paper could be stamped. Such a mortgage requires also an agreement stamp, as securing other matters beside a definite and certain sum. (T. D.; February 3, 1870.)

**Income from profit on bonds taxable.**

Where a person purchased 7.30 Treasury notes at par, and in due time exchanged them for United States 5–20 bonds, which were sold at a premium, it is held that a profit realized by the purchase and sale of the bonds should be returned as income of the year in which the sale was made, the difference between the cost of the bonds and the amount received for the same being the estimated taxable income for the year. (T. D.; February 16, 1870.)

**Liquor dealer's tax, and apothecaries' tax on compounds.**

Under the terms of the law as construed by the Commissioner, payment of special tax as liquor dealer will cover the sale of drugs, medicines, and all other merchandise except tobacco; but a person who keeps a shop where medicines are compounded or prepared on prescriptions of physicians should, in addition to the payment of tax as liquor dealer, be required to pay tax as an apothecary, provided his sales of the drugs or medicines compounded or prepared by him exceed $1,000 per year. Payment of tax as dealer will cover the business of apothecary as provided in section 79, act of July 20, 1868, but will not admit of the sale of liquor in any quantities without additional liability. (T. D.; February 16, 1870.)

**Savings bank's income—Dividend and interest tax.**

The Commissioner decided, in February, 1867, that the entire undistributed earnings of those savings banks enumerated in the proviso to section 110, act of June 30, 1864, as amended, should be exempt from dividend tax. This decision has been reaffirmed by the present Commissioner. The banks falling within said proviso are not required to pay any tax under section 120, but the dividends of all other banks, savings or otherwise, are subject to the tax provided in said section. The depositors, however, receiving dividends or interest from the savings banks described in the proviso to section 110 are required to return the same as taxable in their annual statement of income. (T. D.; February 24, 1870.)

**Commission merchant buying liquor for sale.**

Where a commission merchant purchases liquor from a dealer for his customer in his own name, pays for the same, and sells to his customer, he should be required to

**Commission merchant buying liquor for sale—Commercial broker**—Continued.

pay the special tax as a liquor dealer, without reference to the fact that the liquor does not come into the hands of said commission merchant. A person can simply negotiate the sale of liquors for others under the special-tax receipt of a commercial broker. (T. D.; December 14, 1869.)

**State and municipal taxes—Interest on mortgage—Income.**

State and municipal taxes paid upon a homestead are held to be deductible from income. Ordinary repairs made on homestead are also deductible from income. Interest paid on money invested in business or in real estate from which no income is derived is not deductible from said income, except as it be offset against interest received or falling due to the taxpayer. If a mortgage on homestead were given to secure the payment of money which was invested in business from which income was derived, the interest paid thereon would be deductible from income. (T. D.; February 28, 1870.)

**Income and interest paid—Mortgaged premises.**

Where a mortgage is given to secure the purchase price of premises, or any part thereof, interest paid thereon would not be deductible from taxable income, except where it may be offset against interest received or falling due. If income were received from the rental of any portion of the mortgaged premises, a ratable deduction of interest paid should be allowed. (T. D.; February 28, 1870.)

**Exemption on separate incomes of family.**

It is held that minor children and their parents should be regarded as members of the same family, whether living together or not, and, for taxable purposes, where the members of a family have separate incomes, a ratable proportion of the $1,000 deduction, for which the law provides, should be exempted from the income of each. (T. D.; February 28, 1870.)

**Leaf-tobacco dealers—Special tax as partners.**

Several partners buying and selling leaf tobacco at one place as a unit or firm are required to pay but one special tax as dealers in leaf tobacco, the firm, as such, being regarded in law as a unit or one person. But if the firm has more than one place of business, a special tax must be paid and a special-tax receipt obtained for each separate place of business, and if each person is doing business in his own name at the same place, tho they may be partners in a certain sense, each must pay a separate special tax and have a separate special-tax receipt. (T. D.; March 18, 1870.)

**Entries of proof gallons of whisky, acts of 1866–68.**

In the United States district court of Kentucky, in the case of the United States *v.* Fifty Barrels of Whiskey, Eastman & Warner, claimants, Judge Ballard, charging the jury, *Held* that—

(1) The requisition of the twenty-sixth section of the internal revenue act of 1866 that there shall be entered daily the number of proof gallons purchased or received, of whom purchased or received, and the number of proof gallons sold or delivered is complied with as to entries made before the act of 1868 if the entries, altho made in a continuous manner, without anything to designate to what the figures refer, are a true statement of such transactions.

(2) The provision of the statute that requires the wholesale dealer and rectifier to make these entries daily does not demand that they should make them with their own hand. The duty may be delegated to a clerk, but the dealers and rectifiers are responsible if the proper entries are not made. (T. D.; March 19, 1870.)

**Losses, absolute, are deductible from income.**

Where a company or corporation has gone out of business and the stock becomes absolutely worthless, the loss sustained by investment in such stock should be allowed as a deduction from taxable income of the year in which the company ceased to exist and the loss thus becomes an absolute and ascertained loss. The law excludes deductions on account of "estimated depreciations of values," but the case here indicated is not an "estimated" depreciation of values, but a definitely ascertained loss, and, therefore, should be allowed as a deduction from taxable income. (T. D., March 19, 1870.)

**Penalty for neglect to return for special tax.**

Where persons liable to payments of special tax neglect or refuse to make return therefor, as provided by section 11, act of June 30, 1864, as amended by section 1; act of March 2, 1867, the amount of tax to which they are liable should be assessed upon them, together with the penalty of 50 per cent, in the manner prescribed by section 14 of said act, as amended by that of July 13, 1866. Such cases should be reported under section 98, act of July 20, 1868, notwithstanding the taxpayer may not be acquainted with the provisions of the law, inasmuch as "ignorance of the law excuses no man." (T. D.; March 24, 1870.)

**Bitters, when liable to stamp tax.**

Bitters manufactured by a person who has complied with the law as a rectifier, sold in packages bearing the rectifier's stamp, would not be liable to stamp tax under Schedule C. But if such manufacturer chooses to put up his bitters in bottles and label them in such a manner as to bring them within the provisions of that schedule or the provisions of section 13, act of July 13, 1866, the bitters so put up become liable to stamp tax and are as much liable to seizure, when offered for sale unstamped, as any other medicinal article. (T. D.; March 29, 1870.)

**Penalty of 50 per cent for delays.**

In accordance with the requirement of section 14 of the "compilation" of internal-revenue laws, assessors and assistant assessors must add the penalty of 50 per cent where wholesale liquor dealers, wholesale dealers, and others delay to make their returns beyond the time prescribed by law. Assessors and assistant assessors have no discretionary power in the matter. (T. D.; March 4, 1870.)

**Assessor's pay as witnesses.**

There is no provision of law that authorizes the payment of the traveling expenses or any other pay of an assistant assessor while in attendance as a witness before the United States commissioner other than the per diem and mileage allowed to ordinary witnesses. (T. D.; March 7, 1870.)

**Bonds of municipal officers liable—Tax receipts exempt from tax.**

In regard to stamp tax on the bonds of town and county officers and the receipts of town collections, it is held that the bonds require a $1 stamp, but the receipts of town collectors, given for the payment of taxes, are exempt from tax under section 154, revenue-law compilation. (T. D.; February 25, 1870.)

**Publication of assessments prohibited.**

The publication of the annual list of assessments made on the income returns of taxpayers is directed to be discontinued, as being averse to the Government's best interest; but this order will not prevent the public from inspecting lists as heretofore under the provisions of section 19, act of July 13, 1866. (T. D.; April 5, 1870.)

**Earnings of minor children—Emancipation.**

The rule of this office with reference to the taxable earnings of minor children has been that where a minor is so emancipated as to cut off his parent's legal right to demand and receive the child's earnings as his own, the parent should not be required

**Earnings of minor children—Emancipation—Continued.**

to return said earnings for income tax. A parent's agreement with his minor child to relinquish to the child the right he has to his services and earnings is, as between them, such an emancipation as to relieve the parent from treating those earnings as part of his own income, whether the agreement be written or oral. The publication usual in such cases is for the benefit and information of other persons who may have dealings with the minor. (T. D.; April 14, 1870.)

**Hotel bills deductible from taxable income.**

It is held that the expense of hotel bills incurred by persons traveling for the prosecution of business, or by persons temporarily residing in hotels while conducting business away from home, and actually paid during the year for which the return is made, should be regarded as business expenses and, as such, deductible from taxable income. (T. D.; April 14, 1870.)

**Income tax on discharged soldiers.**

The income tax, under the act of June 30, 1864, was withheld from the pay of the officers of the Army by the disbursing officers as provided by law. The joint resolution of Congress, past July 4, 1864, contained no provision for withholding the tax thereby imposed. When, therefore, the civil war closed it was found that the discharged officers and soldiers were liable to taxation upon both their pay and other income, and assessors began accordingly to make assessments. Thereupon, Congress immediately past the resolution dated July 28, 1866, declaring that the special income tax imposed by said resolution of July 4, 1864, should not be further enforced against said officers or soldiers who have been honorably discharged from the service. This resolution does not relate to the income tax of 1869. (T D.; April 8, 1870.)

**Bond of town supervisor—Stamp tax.**

A bond given by a town supervisor for the proper disbursement of school money, after he has given his official bond and qualified as a public officer, is exempt from stamp tax under section 154, act of July 20, 1868, if such bond be required of him in the discharge of official duties. (T. D.; April 5, 1870.)

**Brewers' special tax.**

Brewers who sell their products in other manner than at the brewery premises in the original casks or packages to which the tax-paid stamps are affixt should be held liable to special tax as liquor dealers. The sale and a delivery, either actual or constructive, must be made from the brewery premises in such original casks or packages, or liability as a liquor dealer is incurred. There is no such thing known to the law as a peddler of liquors, section 79, act of June 30, 1864, having been repealed by the act of July 20, 1868. (T. D.; April 20, 1870.)

**Certificates of deposit—Equality of stamp tax.**

As to stamp tax on certificates of deposit, whether they are general or special, it is held that when bona fide deposits are made with a bank, bankers, etc., it makes no difference as to the stamp tax. Whether general or special—that is, subject to recall or check on sight, or redeemable at a future time designated—both are equally liable to the monthly tax of one-twenty-fourth of 1 per cent on their amount. (T. D.; April 12, 1870.)

**Purchasers of liquor for customers—Liquor dealers.**

Where persons purchase liquor from the dealer in their own name for customers, pay for the same, ship it, and charge the amount on their bill, they are liable to tax as liquor dealers. But where they simply carry orders which they receive from customers to the liquor dealer, who fills the same and ships the goods direct to the

**Purchasers of liquor for customers—Liquor dealers**—Continued.

customer, no liability as a liquor dealer is incurred. It is held also that persons who sell a mixture of soda water, etc., with wine and other spirits should be regarded as liquor dealers. (T. D.; April 21, 1870.)

**Manufacturers of medicinal compounds.**

Persons who manufacture any medicinal compound containing alcoholic spirits, advertise, put up, stamp, and sell the same in good faith as a medicine only, though it may be subsequently sold and used to some extent as a beverage, should not be held subject to special tax as rectifiers, but should be treated as manufacturers and required to stamp their products under Schedule C. This is a question which the assessor should if possible determine from all the facts and circumstances in each case. (T. D.; March 28, 1870.)

**Deduction of $1,000 from income of a family.**

For purposes of taxation, only one deduction should be allowed on the aggregate income of all the members of a family, unless the children have separate property which is under the direction and legal control of some other guardian than the father, or, if he be dead, the mother. But if a minor has a legally appointed guardian who has been lawfully invested with the power of caring for and managing his property and estate, the guardian should be allowed a deduction of $1,000 in favor of his ward, whether the ward lives with his parents or not, and whether the legally appointed guardian be his parent or not. Only one deduction, however, should be allowed to two or more wards comprised in one and the same family, provided their property interest is joint. (T. D.; May 9, 1870.)

**Payment of special tax as conveyancer.**

The exemption of lawyers from additional special tax as real estate agents and conveyancers was intended simply to cover those acts which are in their nature incidental to the practice of law and, in a great measure, part of the business of the lawyer, and other persons should not be permitted to take advantage of such exemption merely to escape payment of the special taxes to which they are really liable. Real estate agents who pay special tax as such may, without any additional liability to special tax, prepare deeds, leases, mortgages, or other legal instruments; but where they make conveyancing a business they are liable to special tax as such. (T. D.; April 27, 1870.)

**Consignment of spirits to liquor dealers.**

A rectifier or liquor dealer who purchases or receives liquors in quantities greater than 20 gallons at one time from any person other than an authorized rectifier, wholesale liquor dealer, or distiller is liable upon conviction to a penalty of $1,000. Therefore, a person who wishes to consign spirits to a liquor dealer to be sold for him on commission or otherwise in quantities greater than 20 gallons at one time must pay a special tax as wholesale liquor dealer, unless he has already paid special tax as a distiller. (T. D.; May 12, 1870.)

**Consignment to wholesale liquor dealer.**

A person who consigns spirits to a wholesale liquor dealer in quantities greater than 20 gallons at one time, and thereby incurs liability to payment of special tax as wholesale liquor dealer, would not be required to return in his estimate of liability the sales of spirits made thru such other wholesale liquor dealer. (T. D.; May 12, 1870.)

**Manufacturers of bitters taxable as rectifiers.**

This office having somewhat modified its rulings on the subject of bitters to the extent that every man who prepares or compounds or prepares bitters, using in the preparation of them rectified spirits on which the tax has been paid, and who prefers to be

**Manufacturers of bitters taxable as rectifiers**—Continued.

placed in the class of manufacturers of medicines rather than that of rectifiers of distilled spirits, and to stamp the bitters which he manufactures or compounds according to the provisions of Schedule C, before selling the same or removing them from the place of manufacture, it is held that he shall be allowed to pay special tax as a rectifier. (T. D.; May 18, 1870.)

**Bonds issued by States and municipalities—Stamp tax.**

Respecting the necessity of stamps on bonds issued by counties and towns in aid of the construction of railroads it is held, under section 154, act of June 30, 1864, as amended by section 9 of the act of July 13, 1866, that a State, county, or town can act only through officers, and the only possible way to exempt the State, county, etc., from stamp tax upon instruments used by them in the exercise of functions strictly belonging to them in their ordinary governmental and municipal capacity is not to require the officers representing them to use stamps on papers executed by them in their official capacity and in the discharge of official functions, the act of the officer being the act of the State. There seems to be no ground in law for a distinction between the State and its officials within the purview of the statute. (T. D.; April 18, 1870.)

**Business in tobacco on Indian reservations.**

It is held that no liability to payment of special tax is incurred by any person with respect to business done on an Indian reservation. Section 107, act of July 20, 1868, however, imposes the tax on tobacco, snuff, or cigars, and distilled spirits wherever produced, but this provision refers only to the tax on the article itself, having no reference to the special taxes on business done. (T. D.; May 13, 1870.)

**Reinsurance receipts deductible from returns.**

Concerning the right of insurance companies to deduct sums paid for reinsurance when making returns of their gross receipts for the taxation imposed by section 105, act of June 30, 1864, as amended by the act of March 3, 1865, while conflicting decisions have been made on this question since January, 1863, by successive Commissioners of Internal Revenue, setting forth different constructions of the meaning of the same statutory provisions, it is now determined that the original decision rendered by Commissioners Boutwell and Lewis shall be reaffirmed, allowing insurance companies, when making returns of their gross receipts of premiums, to deduct the amounts paid out for reinsurance. (T. D.; June 2, 1870.)

**Vender paying brokerage taxable.**

The payment of brokerage by the vender is not to be regarded as conclusive evidence that the broker is acting in his interest and is negotiating a sale instead of a purchase. It should, however, be regarded as prima facie evidence of that fact, and unless the presumption is rebutted by satisfactory evidence the transaction should be treated as a sale liable to taxation under section 99, act of July 20, 1868. (T. D.; June 8, 1870.)

**Prize packages of tobacco, candies, etc.—Manufacturers liable.**

Where persons are engaged in selling what are denominated "prize packages," containing candies, tobacco, etc., in which are inclosed trinkets varying in character and in value, which packages are sold by the manufacturer to the jobber, by the jobber to the retail dealer, and by him to the consumer, it is held that the person liable to the payment of special tax is the manufacturer alone. (T. D.; June 10, 1870.)

**Penalties under section 96, act of 1868.**

The United States district court for the northern district of Mississippi, Judge R. A. Hill, presiding in December term, 1869, in the case of the United States *v.* One Rectifying Establishment, etc., *Held*, Contrary to an opinion delivered by Judge

**Penalties under section 96, act of 1868**—Continued.

Blatchford in the United States circuit court for the southern district of New York, that (1) the penalties prescribed by section 96, act of 1868, apply only to those persons who knowingly and wilfully do or omit to do the thing forbidden or required only where there is no specific penalty imposed by any other section of the act; and (2) that to incur the penalties under section 96 the violator of the law must have a knowledge that he is doing or omitting to do the act forbidden or required, and intends so to do. (T. D.; February 6, 1870.)

**Returns of bank profits.**

It appearing that many assessors thruout the country overlook the provisions of section 121, act of June 30, 1864, as amended, and to require the returns of profits therein provided from banks legally authorized to issue notes as circulation, and which banks have failed to make dividends or additions to surplus or contingent funds as often as once in six months, the attention of assessors is specially called to the provisions of said section. (T. D.; June 22, 1870.)

**Insurance agents—The tax exemption.**

Where commissions or certificates of appointment are issued to insurance agents, signed by resident directors and countersigned by a resident manager of a foreign insurance company, constituting the recipients in express words agents of the company, with power to receive proposals, fix rates of premium, to countersign, issue transfer policies, etc., said acts are regarded as authorized by and binding on the company itself, and such subagents can not claim exemption from tax as "foreign insurance agents;" but where persons simply solicit risks for the agent of a foreign insurance company, drumming up business for him, but having no connection with the company itself, they are entitled to exemption from the special tax of $50 as "foreign insurance agents." (T. D.; June 14, 1870.)

**Liability of rectifiers to special tax.**

The Commissioner of Internal Revenue sees no reason why a rectifier can not transfer the liquors rectified by him to himself and sell the same as a retail liquor dealer and at the same time comply with all the requirements of the law. If he sells his liquors in quantities of 5 gallons or upward, he must of course pay tax as a wholesale liquor dealer; but he is not liable to payment of such tax for simply transferring such liquors to himself to be sold by him in the manner of a retail liquor dealer. (T. D.; May 26, 1870.)

**"Gallon" defined, as used in the act of 1869.**

In deference to the decision of some of the United States district courts the word "gallon" as used in that part of the act of April 10, 1869, defining wholesale and retail liquor dealers, shall hereafter be defined as meaning wine gallon, whether applied to distilled spirits, wines, or malt liquors. Therefore wholesale liquor dealers will be limited in their sales to quantities of not less than 5 wine gallons and retail liquor dealers to quantities of less than 5 wine gallons, regardless of the proof of the spirits sold. (T. D.; June 21, 1870.)

**Prize packages of tobacco—Special tax.**

Referring to the question as to whether dealers or venders of prize packages sold by manufacturers of tobacco are liable to special tax on account of the alleged prizes, it is ruled that if every paper or package contains the gift or prize; if every gift or prize so contained is the same or of equal value with those in the other packages—or, in other words, if there is no chance involved in the buying of the packages, then the dealers in or the venders of said packages are not subject to the special tax. But if there is any appreciable difference in the value of the gifts, or if some packages contain gifts while others do not, then chance and inequality enter into the transaction and render the venders liable to the special tax. (T. D.; April 28, 1870.)

**United States attorney and informer fees.**

Responding to the question whether there is anything unlawful or improper in a United States attorney taking as a fee a portion of the amount to be adjudged to an informer in a case under the internal-revenue laws, the Attorney-General of the United States holds that such a fee would be improper, as such a suit for an informer would require the United States attorney to appear on two adverse sides of the same case. The attorney may have to appear against an alleged informer, not for the purpose of ousting him from a just claim, but to see that no person is adjudged an informer unless he prove his claim to the satisfaction of the court. It is also important that these suits be conducted by the attorney wholly with regard to the public interests and not with regard to the private interests of any person. (T. D.; June 23, 1870.)

**Storekeeper's pay at distilleries.**

It is held that the storekeeper must be at the place of duty during all the hours of his assignment, and is entitled to the full compensation fixt in his assignment. The fact that spirits calls for at least a day storekeeper, whether the distillery be running or not, he must be paid the same as if the distillery were running. (T. D.; June 29, 1870.)

**Manufacturers of wine—Tax exemption.**

In relation to the liabilities of manufacturers of wine to special tax, it is held that the only exemption under the internal-revenue laws is contained in section 81, act of June 30, 1864, as amended by section 9, act of July 13, 1866, the terms of said section being as follows: "That nothing contained in the preceding sections of this act shall be construed to impose a special tax upon vinters who sell wine of their own growth at the place where the same is made." The Commissioner does not seem to be authorized under the law now in force to allow any further exemptions from the tax in this respect. (T. D.; June 29, 1870.)

**Wine manufacturers—Place of making—Special tax.**

The Bureau of Internal Revenue holds as follows: Manufacturers of wine from grapes, berries, or fruits of their own growth are not liable to special tax as manufacturers or as liquor dealers for selling such wine at the place where the same was made. Therefore where such wines are sold at any other place than that of manufacture liability to payment of tax as liquor dealer is incurred, and where wines are manufactured from grapes, berries, or fruits not of their own growth they should pay special tax as manufacturers and as liquor dealers for selling their products, whether selling the same at the place of manufacture or otherwise. (T. D.; June 29, 1870.)

**Sales of peddlers employed not liable in dealer's returns.**

It is held that in the estimate of their liability to special tax as dealers the sales made for them by peddlers in their employ should not be included, notwithstanding a previous ruling to the contrary. If, however, the dealers sell goods to the peddlers, the sales made should be, for taxable purposes, included in their returns as dealers. (T. D.; June 7, 1870.)

**Weiss beer exempt from taxation.**

It being determined, as the result of investigation, that a beer which contains not more than 2½ per cent of alcohol is properly denominated "small" beer, and comes under the exemption in section 48, act of July 13, 1866, and that Weiss beer is recognized as a fermented liquor containing less than 2½ per cent of alcohol, it is held to be entitled to the exemption provided for in the act of March 2, 1867, amendatory of the act of 1866. The exemption does not apply to the brewer, but to the tax on the liquor itself. (T. D.; July 15, 1870.)

**Repeal of tax on compensation of military and civil employees.**

Section 123, act of June 30, 1864, imposing a tax of 5 per cent on the salaries of all officers in the military and civil service of the Government above the rate of $1,000

**Repeal of tax on compensation of military and civil employees**—Continued.

per year having been repealed by section 17, act of July 14, 1870, to take effect August 1, 1870, it is held that all officers and employees of the United States will be paid the entire amount of their salary or compensation accruing for services on and after the latter date. (T. D.; July 22, 1870.)

**Abatement of taxes assessed against pork packers.**

In reply to the inquiry as to the abatement of taxes assessed against pork packers under the act of July 14, 1870, it is held that pork packers are relieved under said act from assessments made under section 4, act of March 31, 1868, and from the payment of taxes already assessed on sales under that section and not paid. It does not relieve such parties from the payment of special tax as manufacturers, nor does it provide for the refunding of taxes already paid. Therefore, special taxes can not be abated under the act referred to, nor taxes already paid refunded. (T. D.; August 16, 1870.)

**Special taxes under section 79, act of 1864.**

It is held that the additional tax of $1 on each $1,000 of sales of wholesale dealers in in excess of $50,000 per annum provided by section 79, paragraph 2, act of June 30, 1864, as amended, is a special tax as distinguished from the "several taxes on sales" imposed under the act of March 31, 1868, tax on auction sales, etc. The special taxes imposed on wholesale dealers, cattle brokers, and apothecaries should be returned, assessed and collected as formerly until May 1, 1871. (T. D.; August 15, 1870.)

**Gas tax under act of 1870.**

The act of July 14, 1870, does not repeal nor in any manner change the law imposing a tax on illuminating gas. Gas companies are subject to the same privilege of charging the tax to consumers as prior to the passage of said act. (T. D.; August 29, 1870.)

**Forfeitures by manufacturers.**

Section 69, act of July 20, 1868, provides for forfeiture by the manufacturer to the Government of the property therein named in case of committing any of the offenses enumerated, viz: (1) Removal of manufactured tobacco from the manufactory or place where it was made otherwise than as provided by law; (2) to sell tobacco or snuff without the proper stamps denoting the tax; (3) without the payment of a special tax as manufacturer of tobacco; (4) without giving bond as required by law; (5) the making by the manufacturer of false or fraudulent entries of manufactures or sales of tobacco or snuff; (6) the making of false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material, and (7) the affixing of any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp, to any box or package containing tobacco or snuff. (T. D.; August 20, 1870.)

**Revenue stamps properly authorized.**

Proper internal revenue stamps are those and those only prepared by order of the Commissioner of Internal Revenue in pursuance of the authority given him by section 67, act of July 20, 1868, and furnished to collectors of internal revenue, who alone are authorized to sell and issue them. A package to be properly stamped must not only have genuine stamps affixt and canceled, but the stamps must be of a denomination and value sufficient to pay the entire amount of the tax to which the contents of the package are liable, and the stamps must not have been used previously to pay the tax on any other package of manufactured tobacco, nor the stamps of the package so used, nor the package filled or refilled after having been once emptied or partially emptied. (T. D.; August 20, 1870.)

**Packages of manufactured tobacco illegally stamped.**

Every person who empties a stamped package of manufactured tobacco and wilfully neglects or refuses to destroy the stamped portion thereof, or any person who sells or gives away, or who buys or accepts from another a stamped package which has

**Packages of manufactured tobacco illegally stamped—Continued.**

been once used for manufactured tobacco and emptied, or any person who puts manufactured tobacco into a stamped package which has been emptied, is liable to the fines and penalties provided for these offenses, respectively, by section 72, act of July 20, 1868. (T. D.; August 20, 1870.)

**Legacy and succession taxes.**

Section 3, act of July 14, 1870, repeals the taxes imposed by existing laws upon legacies and successions on and after October 1, 1870, and section 17 of the same act provides for the continuance of the assessment and collection of all taxes accruing under the provisions of the acts or parts of acts repealed. Under sections 124 and 127 of the act of June 30, 1864, as amended, the liability to the taxes in question accrues upon the passing of property, real or personal, by reason of the death of any person dying after the passage of that act. (T. D.; September 15, 1870.)

**Manipulation of tobacco a process of manufacture.**

Under the law every kind of manipulation of tobacco, whether of the raw leaf, of manufactured, or partially manufactured tobacco, of scraps, waste, clippings, stems, or deposits of tobacco, resulting from any process of handling by which the character and condition of the tobacco is changed and the same prepared for use or consumption, is a process of manufacture, and the person who makes a business of doing this is declared to be a manufacturer of tobacco. (T. D.; September 15, 1870.)

**Packing and stamping of tobacco necessary.**

Before leaving the manufactory or place where it is made a definite and fixt character, class, and condition must be given to all manufactured tobacco, according to which the law requires it to be packed and stamped and the denomination, class, and value of the stamp for the payment of the stamp due thereon determined. The manufacturer can sell in original stamped packages only. He must sell the article just as it is packed, marked, branded, labeled, and stamped; otherwise he commits fraud. (T. D.; September 15, 1870.)

**Legacy and succession taxes.**

Section 3, act of July 14, 1870, repeals the tax on legacies and successions "on and after the 1st day of October, 1870." Section 17 of the same act declares that all acts and parts of acts relating to the taxes therein repealed and all the provisions of said acts "shall continue in full force for levying and collecting all taxes properly assessed, or liable to be assessed, or accruing under the provisions of former acts or drawbacks, the right to which has already accrued or which may accrue hereafter under said acts and for maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof;" and that said act of July 14, 1870, "shall not be construed to affect any act done, right accrued, or penalty incurred under former acts," but that every such right is thereby saved. (T. D.; September 17, 1870.)

**Legacy taxes—Section 17, act of 1870.**

It is held that section 17, act of July 14, 1870, does not apply to the taxes mentioned in section 27 of that act, which absolutely repeals all provisions of existing laws for the assessment and collection of legacy and succession taxes, whether accrued or not, upon bequests, devices, gifts, etc., for public uses of a literary, educational, or charitable character, and provides that taxes levied thereon before the passage of said act, but unpaid, shall not be collected. (T. D.; September 17, 1870.)

**Legacy and succession taxes—When payable.**

The attention of the assessors is called to the fact that legacy and succession taxes accrue upon property passing by reason of the death of a person dying since June

**Legacy and succession taxes—When payable**—Continued.

30, 1864, and that they accrue at the time of such death without regard to the time when they become due and payable under sections 125 and 127, act of 1864. (T. D.; September 17, 1870.)

**Merchandise transported in bond.**

As to transactions in reference to manufactured tobacco, snuff, matches, etc., transported in bond, which should be reported with uniformity by the different collectors whose accounts are thereby affected, it is held that whenever merchandise is transported in bond from one collection district to another, both the shipping and receiving collectors should make the proper entries in their respective bonded accounts for the month in which the goods are entered into warehouse in the receiving district. (T. D.; September 22, 1870.)

**Provision dealers not liable to special tax.**

The resolution of Congress, approved July 14, 1870, merely relieves pork packers, lard renderers, or those engaged in smoking hams, curing meats, or others known in the provision trade as manufacturers, from the tax on sales provided by section 4, act of March 31, 1868, and is not construed into the declaration that they are not manufacturers. Therefore, they should not be held liable as dealers with respect to sales of their product at the place of production. (T. D.; September 29, 1870.)

**Instruments exempt from tax under act of 1870.**

Section 4, act of July 14, 1870, relieves promissory notes for less than $100 from special tax on and after October 1, 1870, and it is held that by the spirit of the statute all the instruments mentioned therein under the head of bills of exchange (inland) are exempted when issued for a less sum than $100 on and after October 1, 1870. This is not to be understood as applying to checks, drafts, or orders drawn at sight or on demand. The tax upon them remains unchanged, viz, 2 cents when drawn for any sum whatever upon any bank, banker, or trust company, and a like amount when drawn "for any sum exceeding $10 upon any other person or persons, companies, or corporations." (T. D.; October 5, 1870.)

**Manufacturers of molasses not liable on less than $1,000 per year.**

Manufacturers of molasses from cane are not liable to the payment of special tax, as such, unless the value of their annual product, that is, the whole value of their molasses, etc., made by them within or during the special tax year, exceeds $1,000 per annum, no matter whether such products may during any given period within the year exceed the rate of $1,000 or not. (T. D.; October 8, 1870.)

**Real estate seizures and sales—Act of 1867.**

In pursuance of section 4, act of March 2, 1867, requiring collectors to report to the Commissioner of Internal Revenue all seizures and sales of real estate for internal-revenue taxes between July 1, 1862, and February 28, 1869, inclusive, it is held that the description of the property should be such as would be required in a deed of the same, and where the office records do not afford this or other material information careful inquiries should be instituted into the facts, copies of notices or other important papers should be secured and placed upon the office files, and the record should thus be made up from the most reliable data obtainable. Where uncertainty exists as to the facts, the same should be noted properly on the report under the head of "remarks." It should also be ascertained in every case whether deeds of conveyance of real estate have been executed and deposited with the district attorney as required by section 30, act of June 30, 1864. (T. D.; October 22, 1870.)

**Instruments recorded without stamp.**

In regard to deeds, bonds, mortgages, etc., found by supervisors of taxes to be recorded in the offices of the county clerks thruout the country without having been properly stamped and as to the law applicable thereto, it is held that under the provisions

**Instruments recorded without stamp**—Continued.

of section 158, act of June 30, 1864, as amended by section 9, act of July 13, 1866, and section 5, 1870, an instrument issued unstamped at a time when and in a place where no collection district was established may be stamped by the party who issued it, or by any party having an interest therein, at any time prior to January 1, 1872, and the legal effect of the stamp thus affixt will be the same as tho affixt by the proper collector. (T. D.; October 25, 1870.)

**Instruments unstamped without intention to defraud.**

Collectors may, under section 158, act of June 30, 1864, affix stamps to all instruments issued unstamped or insufficiently stamped upon payment of the price of the stamp required by law, a penalty of "double the amount remaining unpaid, but in no case less than $5," and where the whole amount of the tax denoted by the stamp required shall exceed the sum of $50, upon also of interest at the rate of 6 per cent on said tax from the day on which such stamp ought to have been affixt. They are also authorized by law to remit the penalty at any time from July 14, 1870, to August 1, 1872, where it appears that the instrument or instruments were issued without the necessary stamp by reason of accident, mistake, inadvertence, or urgent necessity, and without intention to defraud. (T. D.; October 25, 1870.)

**Proprietor's name on packages and labels.**

Under the act of July 20, 1868, the Bureau of Internal Revenue defines the term "proprietor" and limits the use of the proprietor's name on packages of tobacco and on labels to those cases where the person claiming to be the proprietor is the owner of the factory, or has a legal right or title to the particular brand of goods manufactured, or where the tobacco, or snuff, or cigars are made expressly for the person claiming such proprietorship. Goods manufactured for general sale to any customer who will purchase them are not entitled to have the purchaser's name appear on them as proprietor within the meaning and intent of the internal-revenue law. (T. D.; September 16, 1870.)

**Cancellation of proper stamps.**

All manufactured tobacco, before removal from the place of manufacture, unless shipped to a bonded warehouse for export, is required to be stamped with suitable and special revenue stamps for the payment of the tax. These stamps are to be affixt and canceled in the mode prescribed by the Commissioner of Internal Revenue. This duty devolves upon the manufacturer, and a failure to affix and cancel proper stamps forfeits his tobacco and subjects him to heavy fines and penalties. The cancellation is effected by the manufacturer writing on each registered stamp his name and the date when the stamp was applied or used. (T. D.; September 16, 1870.)

**Dividends and profits—Special tax.**

With reference to the tax imposed on dividends and the undivided profits of insurance companies, section 15, act of July 14, 1870, provides that "when any dividend is made * * * which includes any part of the surplus or contingent fund of any corporation which has been assessed and the tax paid thereon * * * the amount of tax on that portion of the surplus or contingent fund * * * may be deducted from the tax on such dividend." Returns should be required in all cases, but whenever the tax paid upon the surplus included in a dividend exceeds or equals the tax assessed upon the dividend itself no tax can be collected upon the dividend, even tho, owing to a change in the rates of taxation, some portion of it may thereby escape taxation. (T. D.; November 2, 1870.)

**Coasting vessels taxed as express carriers.**

It is held that the proprietors of coasting vessels and vessels running upon the rivers and inland lakes engaged in the carrying or delivery of money, valuable papers,

**Coasting vessels taxed as express carriers**—Continued.

or any articles for pay whose gross receipts therefrom exceed $1,000 per year are liable to the special tax of $10 imposed on express carriers and agents by paragraph 50, section 79, act of June 30, 1864, as amended by the act of July 13, 1866. (T. D.; November 8, 1870.)

**Redistillation, leaching, or vaporizing in refining spirits.**

Under the construction heretofore given to the excepting clause of paragraph 5, section 1, act of April 10, 1869, distillers were limited in purifying or refining their spirits in the course of original distillation to the single process of vaporizing and condensing. Under the construction now given to said clause, distillers will be allowed hereafter to use in said process, and as incidental thereto, certain mechanical agents the effect of which will be the purification and refining of such spirits and that alone. The only process of purifying or refining now known to this office as in use that will be admissible under this ruling are redistillation, leaching, or vaporizing thru charcoal, wood shavings, flannel, or similar purifiers. (T. D.; November 8, 1870.)

**Gager's reports the basis of assessments.**

The gager being the agent of the Government, his report must be used in making up the assessment; but if it is found that the distiller reports a greater production than does the gager it is but fair to suppose the gager is in error and a regage should be ordered without additional expense. (T. D.; November 8, 1870.)

**Surplus or contingent funds taxable under act of 1864.**

Section 120, act of June 30, 1864, amended July 13, 1866, imposes a tax of 5 per cent on dividends of banks and on all undistributed sums or sums made or added during the year to their surplus or contingent funds; but in the proviso to said section it is declared that "the annual or semiannual interest allowed or paid to the depositors in savings banks or savings institutions" shall not be considered as dividends. Under this provision of the law it was ruled by Commissioner Rollins that the undistributed earnings of provident institutions, savings banks, savings funds, and savings institutions having no capital stock, and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, fall within the proviso to section 120 of the act in force, and are exempt from dividend tax. (T. D.; November 3, 1870.)

**Manufacturers responsible for tobacco tax.**

Under the present law all taxes on tobacco are paid by stamps, and they are intended to be paid before removal from the place of manufacture and paid by the manufacturer. The manufacturer must properly qualify himself before engaging in the business, and he is responsible for every package of tobacco that leaves his factory. It must have all the marks, brands, labels, and stamps properly put on before removal, besides being put up in legal packages or packages of such styles, limitations, and descriptions as the law prescribes. These marks, etc., give identity to the packages and enable the Government to trace back every package to the manufacturer, in order that he may be held to his responsibility. (T. D.; September 16, 1870.)

**Rectification defined and classified—Act of 1868.**

By reference to paragraph 5, section 1, act of April 10, 1869, defining who are rectifiers, it will be seen that rectifiers become such by rectifying, purifying, or refining distilled spirits or wines by any process other than original distillation from mash and wash; and, second, by mixing distilled spirits, wines, or other liquors with any material so as to manufacture a spurious, imitation, or compound liquor for sale, under any name whatever. The products of rectification may be classified

**Rectification defined and classified—Act of 1868—Continued.**

as distilled spirits, genuine wines, and other liquors. When the result of rectification is the production of distilled spirits, they must be put up in casks or packages as directed in section 25, act of July 20, 1868. (T. D.; November 23, 1870.)

**Wines rectified and purified under act of 1868 exempt.**

The rectifier can not put up his rectified spirits in small vessels, such as bottles, and inclose them in separate casings. He pays tax on the distilled spirits so rectified under the provisions of section 59, act of July 20, 1868. No provision is made in the law as to the manner in which wines that are purified or refined are to be put up, nor are such wines when purified or refined subject to any tax. All other liquors, resulting from ratification, are to be put up and taxed under section 48, act of July 20, 1868, subject to exemptions named in said section. (T. D.; November 23, 1870.)

**Exemptions under section 48, act of 1868.**

The exemption from tax under section 48, act of July 20, 1868, of imitation wines made from grapes grown in the United States and of liquors made from grapes, currants, rhubarb, or berries grown in the United States is held to apply only to the liquors originally produced from either of said fruits and not to such as may be subsequently compounded or made up from liquors theretofore produced from these fruits. (T. D.; November 23, 1870.)

**Dealers in leaf tobacco selling cuttings in bulk.**

Dealers in leaf tobacco are not authorized to sell refuse, scraps, and sweepings of tobacco in bulk unless they qualify by giving bonds as cigar manufacturers and paying special tax as such, the scraps, cuttings, and sweepings being such as are incidental and unavoidable to their business as cigar manufacturers and the same being reported monthly to the assessor. (T. D.; December 2, 1870.)

**Accounts of wholesale and retail dealings in liquor must be distinct.**

It is held that where one person or firm is engaged in the business of wholesale and retail liquor dealer, the business, in these capacities, is to be kept as separate and distinct as if transacted by different persons or firms. This is true as to all transactions between the Government and the dealer and has its principal application in the provisions of law and regulations requiring the wholesaler to keep an account of distilled spirits received and sent out. It is only by treating the two branches of the business as entirely separate that that account can be accurately kept. (T. D.; November 28, 1870.)

**Bonds required for tobacco presses used.**

It is held that manufacturers of tobacco, in order to comply with the provisions of section 63, act of July 20, 1868, must give bond for each screw press kept for use in making plug or prest tobacco, whether such press is used for pressing the lumps into shape or used for pressing the plugs into boxes. (T. D.; January 6, 1871.)

**Sparkling wines—Special tax.**

Certain questions having been presented as to the liability of manufacturers of certain sparkling wines to taxation under section 48, act of July 20, 1868, the Commissioner reaffirms the ruling made March 19, 1868, holding that such imitation sparkling wines are subject to taxation under section 48, act of July 20, 1868, when not made from grapes grown in the United States. The further ruling, made August 6, 1868, is reaffirmed, holding that imitation sparkling wines when made from grapes grown in the United States or from wines made from such grapes are not subject to taxation under the aforesaid section of law. (T. D.; January 7, 1871).

**Places of manufacture and of sale of tobacco.**

In the case of United States *v.* Julius Neid, the United States district court for the western district of Pennsylvania, construing those sections of the act of July 20 1868, regulating the manufacture and sale of cigars and tobacco, *Held*, that there must be a line of demarkation between the place of sale and the place of manufacture of cigars, even when the whole business is carried on in one room, and cigars can not be removed from the latter to the former until packed in boxes, stamped, labeled, and branded as required by law. This decision is in harmony with a ruling heretofore made by the Commissioner of Internal Revenue. (T. D.; January 28, 1871.)

**Profits accruing since December, 1870.**

An examination of that part of the act approved July 14, 1870, relative to the tax of 2½ per cent upon the undivided profits, dividends, interest, and coupons of the companies and corporations enumerated in section 15 of said act supports the opinion that such tax should be withheld from only that part thereof which has accrued since December 31, 1870; that no tax whatever should be withheld from that portion which was earned and accrued during the last five months of 1870. Claims for abatement should be prepared in all cases where assessments have been made contrary to this ruling. (T. D.; February 1, 1871.)

**Manufacturer and dealer in cigars, etc.**

Any person or firm doing business both as a manufacturer of cigars and as a dealer in manufactured tobacco is subject to a double tax liability, viz:

(1) He must pay a special tax as manufacturer of $10, and if his sales, made at his manufactory or elsewhere, of cigars of his own manufacture exceed $5,000 annually then he must make return monthly of such excess and pay a tax of $2 per $1,000 upon sales actually made to bona fide customers. This tax is in addition to the specific tax of $5 per $1,000 paid for stamps.

(2) He must pay a special tax, as a dealer, of $5, and if his sales in the aggregate, including cigars of his own manufacture and tobacco, snuff, and cigars of other persons' manufacture, exceed $1,000 per annum, he must make monthly returns of such excess and pay a tax on all sales of tobacco, snuff, and cigars at the rate of $2 per $1,000. (T. D.; February 9, 1871.)

**Accounts of sales of tobacco required.**

Every manufacturer of cigars who is also a dealer in manufactured tobacco should so keep his books as to be able to tell from month to month not only the total amount of sales for which he is liable to pay a tax as a dealer, but also the exact amount of sales of cigars of his own manufacture on which he is liable to pay tax as a manufacturer. (T. D.; February 9, 1871.)

**Exemption of undistributed earnings of savings banks.**

Upon a careful consideration of the question as to the liability of the undistributed earnings of those savings banks enumerated in the proviso to section 110, act of June 30, 1864, as amended, to dividend tax it is held that the decisions of Commissioners Rollins and Delano should be reaffirmed to the effect that such undistributed earnings should be regarded as exempt from dividend tax. Where asesssments upon such earnings have been made assessors should assist in the preparation of the proper claims for abatement of the taxes. (T. D.; February 17, 1871.)

**Rectification from mixture of spirits.**

As to the question whether the mixture of two or more packages of the same kind of wine, for the purpose of blending and equalizing the same, constitutes rectification or whether, if the wine is of different kinds, it is regarded as rectification, it is held that, if the wines are identical in kind, the mixing is not rectification. But, if the wines are so different in kind that the mixing results in the production of a spurious,

**Rectification from mixture of spirits**—Continued.

imitation, or compound liquor, it is rectification. Any act constituting rectification subjects the party to the special tax of $200 under section 59, act of July 20, 1868, and to the additional tax which is provided in section 48 of said act on all imitation of sparkling wines and on all other liquors, etc., not coming within the exemption named in said section. (T. D.; March 15, 1871.)

**Rectification—Special tax.**

When the product of rectification is not taxable under either section 59 or section 48, act of July 20, 1868, no other liability to tax results from the rectification than the special tax of $200, as, for instance, when the act of rectification consists exclusively in the purifying of wines. (T. D.; March 15, 1871.)

**Renewal "receipts" and "renewals" of insurance.**

The question as to the liability of "renewal receipts" of insurance companies to stamp tax is reconsidered, and it is now held that any writing, whether called a receipt or otherwise, which contains a contract to continue in force any policy of insurance which has not expired, is exempt from stamp tax. A receipt or other writing, given after the expiration of the term for which premium has been paid, is a "renewal" and requires stamps to the same amount as the original policy of insurance. All former rulings inconsistent herewith are reversed. (T. D.; March 16, 1871.)

**Spirits distilled and compounded.**

The distinction between distilled spirits and liquors compounded therefrom is based upon the alcoholic strength of wine and the recognized fact that, when distilled spirits are reduced to 50 per cent proof spirits by the addition of any material, it ceases to be recognized and sold as distilled spirits. Applying this rule, it may be at once determined whether the liquor should be taxed under section 59 and put up and stamped under section 25, act of July 20, 1868, or not. A liquor, tho produced by being rectified or mixed with distilled spirits, or by the infusion of any matter in spirits, will not come under the provisions of section 48, act of July 20, 1868, if it be a medicinal preparation. (T. D.; April 24, 1871.)

**Definition of "original package" and "manufacturer."**

The term "original package," in the act of 1868, is understood as meaning the packing box or case in which bottles or other inclosures are packed for shipment from a foreign land to this country—the package in which the goods are entered at the custom-house—the importer's package who ordered the goods from his agent and offers or exposes them for sale in the home market. The term "manufacturer," as used in section 169, act of 1868, means the person who offers or exposes for sale any of the articles named in Schedule C. According to a correct interpretation of law, the term applies in like manner to the person who offers or exposes the articles for sale, and not, as claimed by importers, to the actual makers of the goods in the countries from which they are imported, unless they are in the same inclosures in which they were packed by the manufacturer. (T. D.; April 21, 1871.)

**Original packages—Stamp tax.**

Revenue officers are instructed that the largest packages, containing the same kind of articles, are to be regarded as the "original," within the meaning of the law. If these packages are unbroken by the importer, he incurs no liability to any penalty on account of the lack of proper stamps; but, if he break such packages, and offer for sale anything less than an original export package, he must affix stamps. This ruling is approved by the Secretary of the Treasury, in instructions to custom-house officers. (T. D.; April 21, 1871.)

**Indictments for violation of internal-revenue laws.**

In the United States district court, northern district of Oregon, in deciding the case of the United States *v.* G. B. Howard, involving certain indictments for violation of the

**Indictments for violation of internal-revenue laws—Continued.**

internal-revenue laws, Judge Deady *Held*, that an indictment which charges a defendant with carrying on the business of a retail liquor dealer without the payment of a special tax at a certain place, continuously between certain dates, is sufficient without stating the means or circumstances by which he became such retail dealer. Furthermore, all persons who deal in tobacco are not liable to pay a special tax, and, therefore, an indictment which charges that a person was a dealer in tobacco without paying the special tax, is not sufficient, but the indictment should also show that he was such a dealer as is required to pay such tax. (T. D.; April 15, 1871.)

**Liability of brewers to special tax.**

Paragraph 17, section 78, act of July 13, 1866, imposes a special tax against any person, firm, or corporation engaged in the manufacture of fermented liquors of any kind, from malt or any substitute therefor, for sale, whether the liquor produced be subject to tax or not. Diligent inquiry has failed to show that any fermented liquor is made in this country for sale but what is made from malt, or from some substitute therefor, and it is *Held*, therefore, that every person making fermented liquors of any kind for sale is liable to pay special tax as a brewer. (T. D.; April 27, 1871.)

**Assessing salaries of State officers.**

The attention of assessors is called to the decision of the Supreme Court of the United States in the case of Buffington, plaintiff in error, *v.* Day, wherein it is *Held*, that the salaries of all necessary agencies for the legitimate purposes of State government are not proper subjects of the taxing power of Congress, and assessors are therefore instructed to govern themselves in accordance with this decision, in assessing and collecting the incomes of State officers. (T. D.; April 27, 1871.)

**Instructions as to the tax on incomes.**

There appearing to exist a misunderstanding as to the proper execution of the act assessing incomes, it is decided that section 11, act of July 14, 1870, only requires "every person of lawful age, whose gross income during the preceding year exceeded $2,000 to make and render a return to the assistant assessor of the district in which he resides." Persons whose incomes are less than $2,000 are not required to make returns, nor is there any authority of law to assessors or assistant assessors to call for such returns. In case any assessor or assistant assessor has sufficient evidence that a person who has not made a return on income has defrauded the Government then they will proceed against such person under the law. (T. D.; April 29, 1871.)

**Agents on salary, without commission, not taxable.**

As to whether a person who is a salaried agent, negotiating sales of ale for his employer, a brewer, and receiving and collecting the price of said sales, but himself keeping no ale on hand, can be held liable for special tax as wholesale liquor dealer it is held that if the only remuneration received by said person is a settled, regular salary, receiving no commission upon the sales he negotiates, he can be considered as only his employer's clerk, and is not liable to tax as a liquor dealer. (T. D.; May 2, 1871.)

**Refund of taxes wrongly assessed—Power of Commissioner.**

Upon the question as to how far the Commissioner of Internal Revenue has authority to direct the restamping of casks of distilled spirits and fermented liquors where the stamp has become detached and destroyed without fault on the part of any one, and relative to the injustice of compelling a manufacturer to pay a tax a second time because the stamp has been destroyed without his fault, the Attorney-General holds, in his opinion dated May 8, 1871, that the remedy for such injustice is found in the power of the Commissioner to refund taxes wrongfully assessed. (See 13 Stat. L., 239, 240.) Where a stamp has been destroyed and the taxpayer forced to affix a

**Refund of taxes wrongfully assessed—Power of Commissioner—Continued.**

new stamp, the Commissioner, upon proof of the facts, has the power to direct the price of the second stamp or the tax, to be refunded, and this seems to be the only legitimate way of remedying the alleged injustice. (T. D.; May 8, 1871.)

**Standing casks for spirits unlawful.**

As to standing casks for spirits the law has been misunderstood to some extent. It is fair to presume that all spirits on the premises of a dealer are intended for sale, and, therefore, all such must bear one or the other of the stamps required by law, or be subject to forfeiture under section 57, act of July 20, 1868, regardless of the kind of cask in which it may be. Every cask on being filled must be gaged, marked, and stamped at each filling, and the stamps and marks must be obliterated whenever the cask is emptied. This alone must render it impracticable to use the expensive and highly ornamental casks known as "stand casks," and the repeated gaging and stamping that must follow their use must render it impracticable to use them. (T. D.; May 31, 1871.)

**Grounds of prosecutions to be stated in writing.**

When a collector of internal revenue directs the commencement of a suit for any cause, he must do so in writing, addressed to the proper district attorney. If it is for a fine, a penalty, or a forfeiture, he will communicate the facts which he expects to be able to prove, and the names and residences of the witnesses, by whom the facts can be shown, and the name of the informer, if any. He will distinctly state what law he believes has been violated and the amount of the penalty claimed. (T. D.; June 8, 1871.)

**Prosecutions under internal-revenue laws.**

It is held that all cases of violation of internal-revenue laws should be reported and the evidence submitted to the collector of the district in which they arise. Such of the cases as involve evasion or nonpayment of taxes should thereupon be referred by the collector to the assessor of the district, with the evidence in the case for such assessment as the facts justify. Criminal prosecution in such cases should not be commenced before the reception of the assessor's report, unless, in the collector's judgment, the delay would be detrimental to the interests of the Government. (T. D.; June 8, 1871.)

**Penalties under the act of July 20, 1868.**

In the case of the United States *v.* Thirty-four Barrels of Distilled Spirits, involving the penalties imposed by the act of 1868, the United States district court for the district of Rhode Island *Held* substantially as follows:

(1) The twenty-fifth and forty-seventh sections of the statute of July 20, 1868, require a wholesale liquor dealer to cause to be done the things specified in those sections, respectively.

(2) Section 47 in its own terms prescribes a punishment for an infraction of its requirements; and section 96 is not therefore applicable to offenses under it, inasmuch as it relates only to acts or omissions for which no specific penalty or punishment is provided elsewhere in the act.

(3) Omissions and neglects of a wholesale dealer to stamp or mark packages containing more than 5 gallons work a forfeiture of such packages by force of section 57, and are therefore within the penalty prescribed in section 96, which applies, however, to packages which contain 5 gallons exactly, neither more nor less. (T. D.; June 17, 1871.)

**Bonds for distilled spirits—Forfeiture.**

The United States Supreme Court in the cases of Harrington, plaintiff in error, and Boyden, plaintiff in error, to the circuit court for the district of Massachusetts,

**Bonds for distilled spirits—Forfeiture—Continued.**

claimants of an alleged number of barrels of distilled spirits *v.* The United States, Justice Bradley delivering the opinion *Held*, That—

(1) Acceptance by a collector of a false and fraudulent bond, given for the removal of distilled spirits from a bonded warehouse, will not prevent a forfeiture of such spirits under the forty-fifth section of the internal-revenue act of July 13, 1866, which forfeits "distilled spirits found elsewhere than in a bonded warehouse, not having been removed therefrom according to law, and the tax imposed by law not having been paid."

(2) The forty-eighth section of the internal-revenue act of June 30, 1864, as amended by the act of 1866, which forfeits all taxable "goods, wares, merchandise, articles, or objects" found in possession of any person in fraud of the internal-revenue laws, etc., is applicable to distilled spirits, notwithstanding the forfeiture of spirits is provided for in a distinct series of sections relating thereto in the same law, or in a supplementary law.

(3) Information may be founded upon either the old or the new law, or both, whenever the facts will admit. All the sections can stand together; one neither repeals nor supersedes the other, as repeals by implication are not favored.

(4) Forfeited spirits are not lost to the Government by being mixed innocently with other spirits, even tho the mixture has passed thru the process of rectification in leaches. The Government is entitled to its fair proportion of the results of the rectification in any case, and to the whole mixture if it was made purposely and fraudulently to destroy the identity of the spirits unlawfully removed from the bonded warehouse. (T. D.; June 24, 1871.)

**Forfeiture of distilled spirits.**

The United States district court, Judge Lowell presiding, for the district of Massachusetts, in the case of the United States *v.* Ninety-five Barrels of Distilled Spirits (Lotan Gassitt, claimant), *Held*, in April, 1871, that the forfeiture of distilled spirits by section 57, act of July 20, 1868, is general, and that that section imposes a penalty for a violation of section 25 of said act, in case the unstamped packages contain more than 5 gallons. (T. D.; July 1, 1871.)

**Stamps for bottles of imported perfumery—Original packages.**

In relation to stamping bottles of imported perfumery, it is held that imported perfumery may be sold in the original and unbroken packages, as entered at the custom-house, without being stamped; but when the original package is broken and the smaller packages are taken therefrom the bottles contained in the smaller packages must be stamped before they are sold or offered for sale. The law requires the stamp to be affixt to the bottle or other inclosure in which the article is sold and delivered, even tho the bottle or the inclosure may be furnished by the purchaser. (T. D.; July 29, 1871.)

**Renewal receipts for insurance policies—Stamp tax.**

The common form of a renewal receipt contains an agreement continuing or renewing an insurance policy. The law imposes upon the renewal or continuance of any agreement or contract a stamp tax equal to that required on the original. Therefore, any written contract made in the form of a receipt which renews or continues a policy requires the same stamp as the original policy, whether such "renewal receipt" is given before or after the expiration of the policy. A different construction of the law would almost nullify the tax on the renewal of policies, and this ruling restores the holding of the Commissioner, as made March 4, 1871. (T. D.; August 16, 1871.)

**Dividends and interest on bonds—Illegal tax refunded.**

The Commissioner of Internal Revenue has uniformly required returns of dividends and interest on bonds for the first seven months of 1870, and has instructed assessors

**Dividends and interests on bonds—Illegal tax refunded—Continued.**

that if, upon an appeal to the Supreme Court of the United States, it should be decided that where the tax collected on such returns has been illegally assessed and collected the proper amounts will be refunded by the Bureau of Internal Revenue. (T. D.; August 14, 1871.)

**Penalty of 5 per cent for failure to pay taxes.**

Respecting liability to the penalty of 5 per cent with monthly interest at 1 per cent for failure to pay taxes within the time prescribed by law, it is now held, notwithstanding the fact that, under former administrations of the Bureau of Internal Revenue, the penalty has been remitted in many cases where there existed extenuating circumstances for the failure that the Commissioner is not authorized under the terms of the statute to adopt the practice which has previously prevailed. The law is regarded as explicitly against that policy. It is held, therefore, that the penalty cited in the statute should, in all cases of liability, be collected according to the terms of the law. (T. D.; August 15, 1871.)

**Assessors granted supervisory power over tax returns.**

In the case of the United States *v.* William Hodson et al., it being a suit in equity, brought under authority of section 106, act of July 20, 1868, to subject the principal defendant to the payment of a tax assessed upon him as a distiller, the United States circuit court for the western district of Wisconsin, *Holds*, That sections 14 and 20, act of June 30, 1864, as amended by the act of July 14, 1866, clothe assessors of internal revenue with supervisory power over and authorize them to investigate all accounts, lists, or returns made or required to be made to him by any and all classes of persons liable to pay taxes upon any property, trade, or business; they authorize him to increase the amount of the assessment in all cases of fraud or of omission, and to assess upon every party the amount of tax for which he is liable. This authority is in its nature judicial instead of ministerial. (T. D.; September 23, 1871.)

**Dumping spirits for rectification.**

In regard to notice required of rectifiers before dumping spirits for rectification the requirement in the regulations is that such notice shall be given in time before dumping to enable collectors to cause an examination of each cask or package before the spirits are emptied therefrom, and where rectifiers fail or neglect to give the notice as required collectors are authorized to withhold their orders for gaging and stamping the spirits after the rectification is complete. (T. D.; October 7, 1871.)

**Oath to refunding claim.**

It is held that a refunding claim may be sworn to before any officer who is authorized to administer an oath, and evidence of his official character may be attached to the claim. Officers of the internal revenue in the districts are always instructed to facilitate appeals to the Bureau of Internal Revenue by certifying the facts upon the claim containing the appeal. (T. D.; October 27, 1871.)

**Certificates of protest and of service—Stamp tax.**

It having been claimed that, inasmuch as notaries' certificates of protests are incorporated with the protests themselves, they do not therefore require additional stamps, it is held that the fact that said certificates are printed on the same sheets of paper with certificates of protest does not incorporate the former with the latter in a manner to relieve the same from stamp tax. The tax in question is not a tax upon the notice, but upon the certificate of service. Being legal evidence of an essential fact, it is liable to stamp tax, and none the less so because it is made upon the same piece of paper with the certificate of protest. (T. D.; October 21, 1871.)

**Private banking firms—Returns of income from profits.**

Private banking firms which are not organized under either general law or special charter are not liable to render returns of profits, etc., as provided in section 15, act of July 14, 1870. The individuals comprising such a firm should return their respective shares of the profits of the business in their returns of income on the proper form (T. D.; November 21, 1871.)

**Bonds for refunding national debt exempt from tax.**

By the act of July 14, 1870, entitled "An act to authorize the refunding of the national debt," all bonds, and the interest thereon, which are issued thereunder, are by that act declared to be "exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority." (Sec. 1, chap. 256, 16 Stat. L., 272). This exemption embraces the interest as well as the principal of the new bonds. Such interest need not be included in the amounts upon which dividend or other taxes are required to be paid. (T. D.; November 16, 1871.)

**Leaf tobacco—Entries and sales.**

The Commissioner of Internal Revenue holds, as heretofore, that, when a cigar manufacturer makes a purchase of leaf tobacco, such a purchase as implies a corresponding sale on the part of the leaf dealer, both parties are by law required to make the corresponding entries. A sale requiring an entry in the leaf dealer's book is a purchase on the part of some one else. And the cigar manufacturer who makes the purchase is required by law to make the entry in his book, and it matters not in this regard whether the tobacco is removed to the factory or stored somewhere else. (T. D.; November 16, 1871.)

**Receipts taxed as substitutes for bank checks.**

It is held that when a paper which purports to be a receipt contains the name of a third party as payee, negotiable words, or other additions, from which it appears upon its face to be of the nature of a check, it should be stamped as such, as being a substitute for a bank check. (T. D.; November 17, 1871.)

**Reuse of canceled stamps forbidden.**

Where it was ascertained that a fire insurance company was in the habit of removing canceled stamps from policies which had not been taken and affixing them to other policies, canceling them again with a common ribbon stamp, the Commissioner of Internal Revenue held said habit as entirely improper and illegal, opening the way to fraud. There is no objection to removing an uncanceled stamp from an instrument which has not been used and attaching it to another paper; but after a stamp has been canceled its efficacy is exhausted, and it should not be used again; but if used inadvertently it will be redeemed. (T. D.; November 27, 1871.)

**Corporation taxes under section 15, act of July 14, 1870.**

It is held by this office that the corporations mentioned in section 15, act of July 14, 1870, are liable to a tax of 2½ per cent upon so much of the interest or coupons paid by them on their bonds or other evidences of debt, issued and payable in one or more years after date, as accrued prior to January 1, 1872; upon so much of their dividends as consists of earnings, income, and gains which accrued and was earned prior to said date, and upon so much of their undivided profits added to any surplus, contingent, or other fund as accrued or was earned prior to said date, even tho such interest was not payable, such dividends were not declared, or such profits were not carried to a fund until after December 31, 1871. (T. D.; January 2, 1872.)

**Limitations of the acts of 1790 and 1867.**

An indictment having been pending in the United States circuit court, southern district of Ohio, for more than a year, alleging that the defendants conspired to defraud the United States of the taxes upon certain distilled spirits manufactured in

**Limitations of the acts of 1790 and 1867**—Continued.

the sixth district of Ohio, a demurrer was filed to the indictment, upon the ground that the prosecution was barred by the two years statute of limitations of the act of 1790. The demurrer was overruled, and the court held that section 30, act of March, 1867, punishing conspiracies, is a "revenue law," and the period of limitation for offenses against said section 30 is held to be five instead of two years. (T. D.; February 3, 1872.)

**Commissions on tobacco removed in bond.**

Attention is called to the fact that collectors and assessors of districts in which tobacco is produced, and from which it is transported in bond under the provisions of the act of July 20, 1868, are not entitled to a commission on such tobacco when withdrawn from bond upon payment of the tax. The circumstances now attending the transportation of tobacco are in no material respect different from those attending such transactions prior to July 30, 1868, except as to the intention of the person shipping the tobacco. The act of July 20, 1868, repealed previous acts authorizing the removal under bond of tobacco intended for sale in another district, and provided for the removal of tobacco in this manner only when intended for export. (T. D.; February 2, 1872.)

**Adjustment of a collector's accounts.**

In a suit against the principal and sureties on an official bond for the amount of money alleged to be in a collector's hands, which he had not paid over on demand, the United States district court for the district of Missouri, September term, 1871, held that a collector of internal revenue should be credited with so much of the list of assessments transferred to his successor as the commissioner found he could not collect with due diligence within the meaning of section 34, act of 1866, and he is at liberty to show that by due diligence he could not collect the same before the expiration of his term of office or that, as to some of the items, the day prior to which they ought to be collected had not arrived, the action of the Commissioner on his accounts not being final. (T. D.; February 2, 1872.)

**Assessments, returns, and penalties.**

Section 11, act of July 20, 1868, forbids the assessment of special tax against distillers and rectifiers under certain circumstances. All assessments made in cases of fraud or of neglect should be promptly reported to this office, giving the name of the delinquent, the amount of tax assessed, the amount of assessed penalty, the time within which the tax accrued, the amount of tax not now assessable, and such other information as the assessor may have. The penalties to be assessed under sections 14 and 118, act of June 30, 1864, as amended, and section 11, act of July 14, 1870, are the 100 per cent penalty in the cases of false or fraudulent returns, and 50 per cent penalty in cases of either refusal or neglect to make returns. These sections apply to the assessment of special taxes and income taxes. (T. D.; February 10, 1872.)

**Mixing and coloring spirits by distillers.**

The mixing of spirits with any material is declared by the act of April 10, 1869, to be rectifying, and rectifying can be lawfully done only by an authorized rectifier, on the premises of such rectifier, not less than 600 feet distant from any distillery. Therefore, distillers can not, in their capacity of distillers, lawfully mix their spirits with burnt sugar or other coloring matter upon their distillery premises, and whoever commits such a violation of law renders himself liable to the penalties prescribed therefor. (T. D.; February 10, 1872.)

**Retrospective operation of act of 1870.**

The Supreme Court of the United States, December term, 1871, Justice Clifford delivering the opinion of the court, in error to the supreme court of Louisiana, in the case of William W. Pugh, Plaintiff in Error, *v.* James L. McCormick, *Held*, that the act

**Retrospective operation of act of 1870—Continued.**

of July 14, 1870, modifying the previous law requiring revenue stamps upon promissory notes, is retrospective in its operation and intended to extend the jurisdiction of collectors or other officers, to whatever delinquencies may have arisen under the previous acts of 1866 and 1864. Neither an indorsement on the back of the note nor a waiver of protest requires a stamp. (T. D.; March 30, 1872.)

**Reassessment—Penalty for fraudulent returns.**

The United States circuit court for the eastern district of Pennsylvania, in Doll *v.* Evans et. al., involving a demurrer to the plea, *Held*, April 1, 1872, that—

(1) An assessor of internal revenue has power to reassess, within the statutory limits, the income tax of a citizen who has paid the tax first assessed against him.

(2) It is the imperative duty of the assessor, upon finding the first return to be false, to add 100 per cent penalty to the reassessment.

(3) The act of Congress which imposes an addition of 100 per cent to the tax, as a penalty for the "return of a false and fraudulent list or valuation," is constitutional. (T. D.; May 11, 1872.)

**Cancellation of revenue stamps.**

Having in view a seizure of cigars for improper cancellation of stamps and irregularity in the caution notice, the Commissioner holds that it is not allowable for manufacturers to cancel stamps by simply writing the initial of their name upon the stamps. And in regard to dating the stamps as a part of the cancellation, it is not allowable to use figures to indicate the month. The irregular practise in these respects should be corrected. (T. D.; May 25, 1872.)

**Leaf tobacco to be sold in unbroken packages.**

Under the new law, which takes effect in regard to tobacco, July 1, 1872, dealers in leaf tobacco, who have paid special tax as such, can sell leaf tobacco in unbroken packages to dealers in leaf tobacco, snuff, tobacco and cigar manufacturers who have paid the special tax as such, and to such persons as are known to be purchasers of leaf tobacco for export; but they can not break packages and retail therefrom, nor sell to such parties as are here named. If, on and after July 1, 1872, a party engages in the business of selling leaf tobacco to consumers, or retailing it, he must pay the special tax of $500 per annum imposed by the new law upon retail dealers in leaf tobacco. He can not sell leaf tobacco to consumers, or retail it under a special-tax receipt of $25, as a dealer in leaf tobacco. (T. D.; June 21, 1872.)

**Dealers and peddlers in tobacco.**

In view of the fact that the Pullman Palace Car Company were running "dining or hotel cars" and that they had paid special tax as dealers in tobacco for selling cigars on the railroad trains, the question is raised whether, under the act of June 6, 1872, said company should be classed as dealers in tobacco or as peddlers of tobacco. In response to this inquiry, it is held that, if the parties in question travel thru the cars selling cigars, they should be regarded as peddlers of tobacco and required to qualify as such. But if they do not travel thru the cars, having only a car or part of a car fitted up as a dealer's place of business and selling cigars at only that fixt place of business to passengers on the train, they will be considered as simply dealers in tobacco. (T. D.; July 11, 1872.)

**Effect of act of 1872 on stamp taxes.**

It is held that section 36, act of June 6, 1872, repeals the stamp tax on bankers' and brokers' sales, to take effect October 1, 1872, the repeal affecting all taxes imposed by stamps under and by virtue of Schedule B, section 170, act of June 30, 1864, and the several acts amendatory thereof, without regard to whether the tax is imposed by two distinct provisions of the law or not. (T. D.; August 23, 1872.)

**Refunding taxes—Specification of sales.**

In all cases of claims for the refunding of special taxes on account of the discontinuance of business because of the requirements of the act approved June 6, 1872, where the annual special tax paid was based upon sales to a limited amount, as in the case of dealers in leaf tobacco and dealers in manufactured tobacco doing business in the manner of peddlers, it will be necessary for the claimants to specify the aggregate amount of their sales during the months of May and June, 1872. Where such sales amounted to the maximum covered by the special tax paid, there can be no refunding of any portion of the tax, as all of it was exhausted by the sales made. (T. D.; August 30, 1872.)

**Liabilities of rectifiers.**

Under section 59, act of July 20, 1868, as amended by the act of April 10, 1869, all persons manufacturing the imitation sparkling wines and compound liquors described in section 48, act of 1868, as amended, are rectifiers and liable to all the requirements of law as such. In their monthly returns they should report, on a separate line, the quantity of imitation sparkling wine not made from grapes grown in the United States and all liquors produced by being rectified or mixt with distilled spirits or by the infusion of any matter in spirits to be sold as wine or as a substitute for wine manufactured, compounded, or put up by them during the month and the quantity of such merchandise removed from the place of manufacture. (T. D.; August 31, 1872.)

**Stamps for fruit brandy prior to August, 1872.**

It having been decided that brandy distilled from fruit prior to August 1, 1872, is liable to a tax of 50 cents per gallon, tax-paid stamps to be used specially for spirits thus distilled will be issued from this office on receipt of a collector's requisition. Before issuing such stamps it will be incumbent on collectors to require satisfactory evidence that the brandy for which the stamps are desired was actualley distilled prior to August 1, 1872, and they will be held to a strict responsibility for the proper use of the stamps of this class issued by them. (T. D.; August 31, 1872.)

**Moieties to informers abolished.**

It is held that, by section 39, act of June 6, 1872, moieties to informers under the internal-revenue laws have been abolished. All amounts received by collectors of internal revenue on account of fines, penalties, and forfeitures, compromises, etc., on and after August 1, 1872, should be deposited to the credit of the Treasurer of the United States, except money received as proceeds of sales made under section 63, act of July 13, 1866, as amended, which should be credited, as heretofore, to the special-deposit account of the Secretary of the Treasury. (T. D.; August 8, 1872.)

**Business relations of revenue gagers.**

Internal-revenue gagers are prohibited from being or becoming interested, directly or indirectly, in the manufacture, purchase, or sale of tobacco, snuff, or cigars, or in the production, rectification, redistillation, or purchase, or sale of distilled or fermented liquors. They are not prohibited from engaging in any other business which will not interfere with the efficient discharge of the duties of their office. (T. D.; September 23, 1872.)

**Instruments dated, but undelivered, before October, 1872.**

As to a large number of instruments dated prior to October 1, 1872, but not actually issued or delivered until that date or afterwards, the question is presented whether internal-revenue stamps were, in such cases, required. The ruling on this inquiry is that such instruments do not require to be stamped, but, in view of the prima facie presumption of the delivery of an instrument on the day of its date, it is suggested that, upon instruments of the description in question, some memorandum should be made showing that they were not issued until on or after October 1, 1872,

**Instruments dated, but undelivered, before October, 1872**—Continued.

so as to explain the absence of the stamps which the date would indicate were required. (T. D.; October 30, 1872.)

**Bond of distiller—Liability of sureties.**

The United States circuit court for the eastern district of Pennsylvania, in the case of Ann Osborne, administratrix of Joseph Osborne, plaintiff in error, *Held* that, by section 7 of the act approved July 20, 1868, imposing taxes on distilled spirits, etc., it is required that every distiller shall execute a bond with sureties. By section 8 of said act, no bond shall be approved where there are liens against the lot of ground on which the distillery is situated, unless priority of liens is released. The decedent, the defendant below, became surety on a bond, there being such liens in existence not released. The assessor, contrary to the said act, approved the bond. Upon a default, suit was brought against the surety and a verdict obtained against him. Upon a plea and demurrer, the district court held that notwithstanding the bond was approved contrary to the act of Congress the defendant was still liable upon it, and the circuit court affirmed the ruling of the district court. (T. D.; November 2, 1872.)

**Capacity of distillery basis of tax.**

Section 20, act of July 20, 1868, requires that the quantity of spirits returned for assessment by a distiller shall not be less than 80 per cent of the producing capacity of the distillery, and it is held that where the distiller does not produce the 80 per cent he is liable yet to tax upon that amount. The tax is not upon the actual quantity of spirits produced, but upon 80 per cent of the producing capacity of the distillery, whether that quantity is distilled or not. (T. D.; November 9, 1872.)

**Hand stamps allowed for cancellation.**

In reply to the petition of P. Lorillard & Co. and of others for the privilege of using a hand stamp in imprinting firm names upon registered tobacco stamps as a part of the cancellation thereof, instead of writing such names, the Commissioner of Internal Revenue has decided to so modify the paragraph marked "1" under the head of "Mode of cancellation" of regulations as to allow a manufacturer to use a hand stamp for stamping or printing his or his firm's name upon registered tobacco stamps, instead of writing such names with a pen, such stamp being required to be so made as to give a facsimile impression of the manufacturer's handwriting in ordinary business transactions. (T. D.; November 19, 1872.)

**Inspection of tobacco for export.**

In answer to the inquiry whether tobacco which is in transit from the manufactory for export from the port of New York can be opened there for examination, this office holds that tobacco, after its removal from the manufactory goes, upon its arrival at New York, immediately into the custody of the proper officer of customs, who is responsible for it until the final clearance of the ship in which it is to be exported. Therefore, if said officer will permit an opening of the package and an examination of the tobacco this office has no objection. (T. D.; December 24, 1872.)

**Change of destination for export tobacco.**

Replying to the question whether the destination of tobacco, upon its removal from the manufactory for export, can be changed from that contained in the export bond, it is held that the law requires the production of a proper landing certificate and the prescribed evidence that the tobacco has been landed in any port outside the jurisdiction of the United States. So long as this evidence is produced, this office has no objection to a change of the destination of the tobacco from the one originally proposed and, upon such evidence as is required by the rules and regulations, will authorize the cancellation of the export bond. (T. D.; December 24, 1872.)

**Drawback on export tobacco.**

As to whether tobacco which had been stored in an export bonded warehouse and thereafter withdrawn on payment of tax is entitled to drawback if exported to a foreign port, it is held to have been the evident intention of the act, approved June 6, 1872, to extend the benefit of the drawback to all exported tobacco upon which tax had been paid after July 1, 1872. A drawback will also be allowed on such tobacco as has not been tax paid at the manufactory, but which was withdrawn from a bonded warehouse upon payment of taxes after July 1 and subsequently exported. (T. D.; December 24, 1872.)

**Leaf-tobacco dealers taxable at each place of sale, etc.**

Under the amended definition of a dealer in leaf tobacco (see sec. 59, act of July 20, 1868, as amended by act of June 6, 1872), it is held that dealers in leaf tobacco are liable to pay a special tax for each separate place at which they sell leaf tobacco or from which they ship on consignment to be sold for them on commission, provided such place is known or held out in any way to the public as a place where they receive, prize, and sell, or consign for sale, leaf tobacco. (T. D.; December 27, 1872.)

**Deposits of savings banks for taxable purposes.**

Attention is called to the ruling of this office concerning the tax upon the deposits of savings banks having no capital stock, etc. It is there prescribed that, in ascertaining the taxable amount of deposits, all sums of $500 and upward, in the name of any person, are to be included. The thirty-seventh section of the act approved June 6, 1872, enlarged this exemption so that, in ascertaining the taxable average amounts of deposit made after July 30, 1872, all sums exceeding $2,000 in the name of any person are to be included. This new provision applies to no deposits made prior to August 1, 1872. (T. D.; December 13, 1872.)

**Distillery capacity of production basis of tax.**

As to the question relating to the construction that should be given to section 20, act of July 20, 1868, imposing taxes on distilled spirits, the Supreme Court of the United States, in the case of United States, Plaintiff in Error, *v.* Singer & Bickerdite to the circuit court for the northern district of Illinois, *Held*, That the true meaning of said section is that in no case shall the distiller be assessed for a less amount of spirits than 80 per cent of the producing capacity of his distillery, and if the spirits actually produced by him exceed this 80 per cent he shall also be assessed upon the excess. (T. D.; January 11, 1873.)

**Tobacco tax uniform—Mode of packing.**

No necessity is laid upon the Government under the law as amended by the act of June 6, 1872, to draw the line between or to define what is smoking tobacco and what is chewing tobacco. The tax on all grades and descriptions of tobacco is now uniform and the same whether the tobacco is chewing or smoking or equally well adapted for both purposes. As to the mode of packing attention is called to section 62, act of July 20, 1868, as amended by the act of June 6, 1872, providing that "all smoking tobacco, and all cut and granulated tobacco other than fine-cut chewing, shall be put up in packages of 2, 4, 8, and 16 ounces each and in no other manner." (T. D.; January 3, 1873.)

**Legal provisions as to bank taxes.**

It will be seen by the proviso to section 110, act of June 30, 1864, as amended, that national banks are not liable to tax thereunder. National banks, as well as other banks, are liable to make returns under section 6, act of March 3, 1865, and section 2, act of March 26, 1867, and to pay tax of 10 per cent on notes therein mentioned as "paid out" by them. Private bankers also are liable to the tax imposed by section 2, act of March 26, 1867. (T. D.; January 10, 1873.)

**Conditions of warehouse bonds.**

In the case of United States *v.* Powell et al., the Supreme Court of the United States, Justice Clifford delivering the opinion of the court, *Held*, That—

(1) The proprietors of all internal-revenue bonded warehouses shall reimburse to the United States the expenses and salary of all storekeepers or other officers in charge of such warehouse, and that the same shall be paid into the Treasury like other public money.

(2) That a distillery warehouse is a bonded warehouse within the joint resolution of Congress, dated March 29, 1869.

(3) That any substantial addition by law to the duties of the obligor of a bond, after the execution of the instrument, materially enlarging his liabilities, will not impose any additional responsibility upon his sureties, unless the words of the bond, by a fair and reasonable construction, bring such subsequently imposed duties within its provisions.

(4) Where official bonds for the discharge of duty are required, without reference to the time when the duty was imposed, and where the language of the bond is sufficiently comprehensive with that required at the date of the bond, the construction which gives a prospective as well as a retrospective operation to the condition of the bond may be adopted as just to all concerned. (T. D.; January 18, 1873.)

**Appeals to the Commissioner—Recovery of taxes paid.**

In the case of George Q. Erskine, Collector of Internal Revenue, Plaintiff in Error, *v.* Robert Hohnbach, in error to the United States circuit court for the eastern district of Wisconsin, the Supreme Court of the United States at the adjourned term in November, 1872, *Held*, Justice Field delivering the opinion of the court, that—

(1) An appeal to the Commissioner of Internal Revenue from an assessment is only a condition precedent to an action for the recovery of taxes paid, and is not a condition precedent to any other action where such action is permissible.

(2) That the collector could not revise or refuse to enforce the assessment regularly made by the assessor in the exercise of the latter's jurisdiction; that the duties of the collector in the enforcement of the tax was purely ministerial; that the assessment was his authority to proceed, and, like an execution to a sheriff, constituted his protection.

(3) That an error of judgment on the part of the assessor in making an assessment can not control the action of the collector, nor justify him in suspending the enforcement of the tax. (T. D.; January 18, 1873.)

**Recovery of taxes illegally paid.**

The United States Supreme Court, at its December term, 1872, in error to the circuit court of the United States for the eastern district of Pennsylvania, Justice Clifford delivering the opinion of the court, *Held*, That taxes illegally exacted under the revenue laws of the United States may be recovered back, if paid under protest, in an action of assumpsit against the collector, but the person taxed can not enjoin the collector from enforcing payment, and very grave doubts are entertained whether trespass against the collector is a proper remedy under existing laws. (T. D.; March 15, 1873.)

**Forfeitures of liquor, tobacco, and cigars under act of 1848.**

In a case involving a violation of section 45, act of 1848, and claims that, for such violation, 1,200 gallons of distilled spirits became forfeited to the United States, the United States circuit court for the southern district of New York *Held*, That the forfeiture of liquor, tobacco, and cigars declared by the ninety-sixth section of the internal-revenue law of 1848 applies only to cases for which no specific penalty or punishment is imposed, and not to cases or offenses described in other sections wherein a specific penalty or punishment therefor is imposed. Independent of the consideration that laws of doubtful or double meaning should not be too harshly

**Forfeitures of liquor, tobacco, and cigars under act of 1848**—Continued.

construed, this is the most natural construction of the language of the section in question. This construction gains much support from the fact that in previous sections of the act not only forfeiture of all spirits, but much more, is already imposed, and it is not to be supposed that those previously declared forfeitures were made less by the ninety-sixth section of said act. (T. D.; March 15, 1873.)

**Annual special-tax stamp.**

In pursuance of section 3, act of December 24, 1872, a special-tax stamp on distilled spirits, fermented liquors, tobacco, and cigars, with its twelve coupons, represents the tax on the occupation for one year, excepting the $20 stamps for stills or worms; and when a taxpayer is in business May 1, or commences business during the month of May of any year, the full amount of the tax for one year should be collected, and the stamp and its twelve coupons should be detached and issued; but where a party begins business at any time subsequent to May 31 he is only required by law to pay pro rata from the commencement of the month in which he engages in business to May 1 next ensuing, and in this case the collector should detach the stamp and all the coupons up to and including the one representing the month in which the business is begun. (T. D.; March 15, 1873.)

**Assessor's authority—Collection of revenue.**

In the case of the Delaware Railroad Company *v.* John S. Prettyman, Collector of Internal Revenue, and William C. Davidson, involving an injunction bill in equity, to restrain a United States collector, his agents, and deputies from collecting a tax assessed as such by a United States assessor under and by virtue of Congressional enactments, the United States circuit court for the district of Delaware, October term, 1872, *Held:*

(1) An assessor of internal revenue acts judicially in determining what persons and things are subject to taxation under an act of Congress levying taxes.

(2) If the subject-matter is within the assessor's jurisdiction—that is, if he is bound to inquire and determine who and what are subject to taxation, a mistake as to the person or thing taxed, or an irregularity of proceeding on his part will not invalidate his action as assessor so far as to make the collector who proceeds on a warrant in proper form to collect the tax a trespasser.

(3) A sum of money assessed by a United States assessor, under the provisions of an act of Congress in the exercise of his judicial power to decide what is the subject-matter of taxation, is a United States tax within the meaning of the act of Congress prohibiting any court from maintaining a suit restraining the collection of United States tax. In such a suit the court will not hear the question of the unconstitutionality of the law nor the invalidity of the act of Congress under which the tax has been assessed argued, however much they may be of the opinion that the law, when tested in another form of action, will be found unconstitutional, invalid, or inoperative. The purpose of the act was to prevent interference with the collection of the revenue. (T. D.; March 23, 1873.)

**Income tax—Minority opinion of Supreme Court.**

In the United States Supreme Court, in error to the circuit court of the United States for the eastern district of Pennsylvania, the opinion of the majority of the court being delivered by Justice Clifford, Justice Strong delivered the opinion of the minority, who *Held*, In regard to sections 120, 121, and 122, act of June 30, 1864, that—

(1) The one hundred and twentieth, one hundred and twenty-first, and one hundred and twenty-second sections of said act of Congress relate to the tax on income imposed by the one hundred and sixteenth section, and their sole purpose was not to impose a new tax, but to provide a different mode of collection from the taxpayer.

**Income tax—Minority opinion of Supreme Court—Continued.**

(2) The tax upon dividends made and interest payable by railroad, canal, turnpike, canal navigation, and slack-water companies for the payment and collection of which provision was made by the one hundred and twenty-second section, was a tax on income within the meaning of section 116, and not a different and independent tax.

(3) That the tax upon all income, without regard to its source, derived or received by the taxpayer prior to January 1, 1870, expired with the close of the next preceding year. (April 5, 1873.)

**Distiller's bond and notices.**

By reference to the act of April 10, 1869, as amended June 6, 1872, it will be seen that "every person who sells or offers for sale foreign or domestic distilled spirits or wines in quantities of not less than five gallons at the same time shall be regarded as a wholesale liquor dealer." By the ninth paragraph distillers who have given bond as such, and who sell only distilled spirits of their own production at the place of manufacture in the original cask or package, to which the tax stamps are affixt, are exempted from paying the special tax of wholesale liquor dealers on account of such sales. Therefore distillers, in selling spirits of their own production, must do so in their capacity as wholesale liquor dealers, but are exempted from paying special tax as wholesale liquor dealers provided the sale is made within the period for which they have given bond as distillers. (T. D.; April 24, 1873.)

**Business engagements of gagers.**

Internal-revenue gagers are prohibited from either being or becoming interested, directly or indirectly, in the manufacture, purchase, or sale of tobacco, snuff, or cigars, or in the production, rectification, redistillation, or purchase, or sale of either distilled or fermented liquors. They are not prohibited from engaging in any other business which shall not interfere with the efficient discharge of the duties of their office. (T. D.; April 23, 1873.)

**Assessments of bank taxes under act of 1872.**

The attention of collectors is called to circular No. 110, which authorizes, under section 37, act of June 6, 1872, certain deductions in cases where assessments of deposits and capital of banking associations have been made and paid. In making such deductions, each specific tax must be deducted from the tax of the same kind—that is, the tax paid on deposits must be deducted from the tax on deposits, the tax on capital from the tax on capital, and the tax on circulation from the tax on circulation. Collector, are required to examine carefully all returns of banks, and if not made in accordance with these instructions they will require amended returns. If, upon correction, the return shows that the taxable amount previously reported is too small, the additional amount which should he assessed will he reported in its proper column, and the additional tax will be assessed without penalty, in accordance with the facts. (T. D.; June 2, 1873.)

**Mortgages, deeds, etc., unstamped.**

With regard to instruments not duly stamped it is held that cases where there is evidence of an intent to evade the law should be reported to the United States district attorney for prosecution. Where parties, on being notified, refuse to have stamped deeds, etc., issued without requisite stamps, previous to October 1, 1872, it may be considered prima facie evidence tending to prove an intent to evade the law. Any party who, with intent to evade the law, issues, accepts, negotiates, or pays any check, draft, or order not duly stamped incurs a penalty of $50 in each case. (T. D.; June 27, 1873.)

**Tax lists or returns as furnished under acts of 1864 and 1872.**

It is held that the terms of section 14, act of June 30, 1864, made it the duty of assessors and assistant assessors to prepare lists or returns where not furnished by tax-

**Tax lists or returns as furnished under acts of 1864 and 1872**—Continued.

payers, according to the best information they could obtain, and the first section of the act of December 24, 1872, transfers this duty to collectors and their deputies. (T. D.; September 9, 1873.)

**Recovery of money deposited by distiller with collector.**

In an action of assumpsit as for money had and received, brought by Adolphus and Simon Nusbaum, distillers at Peoria, against Enoch Emory, the United States collector for that district, Judge Blodgett of the United States circuit court for the northern district of Illinois *Held*, That—

(1) A distiller can not recover from the collector money which has been deposited with him to pay for the patented meters for his distillery prescribed by the Internal-Revenue Bureau.

(2) It is the duty of the collector, upon receipt of meters, to transmit the deposits to the patentee, and he is not liable to the distiller. He is a mere stakeholder.

(3) Where a plea does not distinctly allege, nor deny, that the regulations were followed, the court, on general demurrer, will presume that they were.

(4) Congress has the right to compel distillers to affix certain meters to their stills as a condition precedent to carrying on their business, whether such meters are patented or not.

(5) The Government having prescribed the terms on which a person can engage in the business of distilling, a person having accepted those terms and entered upon the business can not afterwards question their binding force. (T. D.; September 13, 1873.)

**Liability of vinters to special tax.**

A person who at the place of manufacture sells wine made exclusively from grapes of his own growth is held not liable to special tax as a liquor dealer in respect of such sales; but if selling such wine away from the place of manufacture such person is held to be liable. A vinter who sells wine made from grapes not exclusively his own growth is subject to special tax therefor, whether selling such wine at the place where made or elsewhere. (T. D.; September 20, 1873.)

**Alphabetical lists of special-tax payers.**

Collectors of internal revenue are directed to see that each deputy in charge of a division is furnished with a book containing a record made up from the office alphabetical list of the names of all persons in his division who have paid special taxes for the fiscal year, including those who paid such taxes to the collector, or to any of his deputies, and each deputy should be required to keep the record in his book so complete that it can be depended upon as a guide in determining what persons in his division have paid such taxes. (T. D.; September 8, 1873.)

**Examination of warehouse bonds.**

Collectors are instructed to make examination of all bonds in their possession on the first Monday of January, April, July, and October of each year, or oftener, if necessary; and, also, when bonds are transferred to them by their predecessors in office, in order to satisfy themselves of the validity of such bonds and of the sufficiency of the sureties thereon, and, in case of any doubt in their mind on these points, they will call for new bonds sufficient to insure payment of tax on all spirits remaining in warehouse. (T. D.; September, 1873.)

**Distiller's bond—Suit for neglect to file.**

Should any distiller or owner of distilled spirits, deposited in a distillery warehouse, neglect or refuse to file the proper bond for such spirits within the time required by law, the collector should at once place the distiller's bond in the hands of the district attorney for suit for tax on said spirits; and, in addition thereto, the collector should notify the district attorney to institute suit against the distiller under section 96, act of July 20, 1868, for violation of section 23 of said act. (T. D.; September, 1873.)

**Penalty imposed on a brewer for neglect—Motive of neglect.**

In the case of United States *v.* Foster, it being an information as in a declaration in debt, under sections 48, 49, 51, and 53 of the internal-revenue act approved July 13, 1866, Judge Drummond, of the United States circuit court for the eastern division of Wisconsin, *Held*, that the penalty imposed upon a brewer by the fifty-first section of the act of July 13, 1866, for a failure to keep the books prescribed by the forty-ninth section of that act is imposed without any reference to the motive causing such neglect. Tho it may be a question whether, when the action for debt is brought, any indictment could afterwards be maintained, it is not necessary to decide this question, inasmuch as the language of the law leaves the penalty to be imposed within the discretion of the court. (T. D.; January 3, 1874.)

**Suit on tax assessment—Appeal to Commissioner.**

The United States circuit court for the southern district of New York, October term, 1873, Judge Shipman delivering the opinion, *Held*, that—

(1) In a suit by the Government against the principal and sureties to a distiller's bond for the collection of taxes assessed against the principal, the assessment is conclusive for all purposes and evidence can not be admitted to show its incorrectness. The only method permitted by the internal-revenue laws by which to question an assessment is by paying the tax, as assessed, under protest, appealing to the Commissioner and bringing suit to recover the amount paid.

(2) This applies to original assessments and to reassessments made under section 20, act of June 30, 1864, as amended by section 9, act of June 13, 1866.

(3) Sureties have the same right to recover taxes paid by them on behalf of their principal as the principal would have had, if he had paid the tax himself. (T. D.; April 11, 1874.)

**Recovery of tax paid under protest.**

The United States circuit court for the southern district of New York, October term, 1873, in the case of Barker *v.* White, Collector, etc., it being an action to recover a tax paid by the plaintiff under compulsion and protest to the collector of the sixth district of New York, *Held*, that—

(1) Under section 20, act of June 30, 1864, as amended by section 9, act of July 13, 1866, an assessor may make a reassessment at any time within fifteen months after the transmission of list containing original assessment to the collector, when such list shall have been imperfect by reason of any omission or understatement or undervaluation arising from the error or mistake of the assessor himself as well as when such omission or understatement or undervaluation occurred in the return of the party liable to the return of the tax.

(2) In a suit against a collector to recover a tax paid under protest upon a reassessment, the mere existence of such a reassessment can not raise a presumption that an error or omission such as is provided for by section 9, act of July 13, 1866, existed in the original list. Such error must be shown either to have existed in the return of the party taxed or in the act of the assessor himself to prove that the assessor had authority to make such a reassessment. (T. D.; April 11, 1874.)

**Druggists and apothecaries—Special tax.**

The law imposing a special tax on apothecaries, as such, and making a limited exemption in their favor with regard to the sale of wines and distilled spirits in quantities not exceeding half a pint at one time, etc., was repealed by the act of June 14, 1870, section 1, taking effect May 1, 1871. Apothecaries and druggists are now, and they have been since that date, precisely on the same footing as other parties with regard to the sale of wines and distilled spirits. The law imposes a special tax upon every person who sells or offers for sale distilled spirits or wines in any quantity for any purpose. (Act of April 10, 1869, section 1, amended by act of June 6, 1872, section 13.) Every such person, even if he sells on the prescriptions of physicians, is technically a liquor dealer. (T. D.; May 4, 1874.)

**Prohibition of liquor selling.**

The United States Supreme Court, Justice Miller delivering the opinion of the Court, *Held,* that the right to sell intoxicating liquors, so far as such a right exists, is not one of the rights growing out of citizenship of the United States, and, therefore, the prohibition by a State of the sale of such liquors is not a violation of the privileges and immunities of citizens of the United States. (T. D.; June 22, 1874.)

**Sureties on a transportation bond—Liabilities and obligations.**

It was *Held* by the Supreme Court of the United States, October term, 1873, Justice Miller delivering the opinion of the court, that—

(1) The sureties on a bond for the transportation of tobacco from one district to another, in the condition of which the number of boxes and pounds of tobacco are given and the kind of tobacco described, are responsible for the delivery at the proper place of the tobacco, and not the boxes in which it was supposed to be but never was.

(2) The fraud of the principal in filling the boxes with other substances than tobacco before they left his warehouse does not release the sureties from this obligation; nor does the carelessness of the inspecting officer, tho it made the fraud of the principal in the bond easier of accomplishment, release the sureties on his transportation bond. (T. D.; June 8, 1874.)

**Duties of collectors as to violations of law.**

The act of March 3, 1873, provides that "it shall be the duty of the several collectors of customs and internal revenue to report within ten days to the district attorney of the district in which any fine, penalty, or forfeiture may be incurred for the violation of any law of the United States, relating to the revenue, a statement of all the facts and circumstances of the case within their knowledge, together with the names of the witnesses which may come to their knowledge from time to time, stating the provisions of the law believed to be violated and on which a reliance may be had for condemnation or conviction." The carrying on of any business upon which a special tax is imposed by law, without payment of the tax, is a violation of law which renders the delinquent liable to fines and penalties. (T. D.; June 11, 1874.)

**Tax rate on interest, dividends, and undivided earnings.**

The rate of tax upon interest, dividends, and undivided earnings is that in force at the date such interest or earnings, or the profits from which such dividends were declared accrued without regard to the time when the interest was paid or the dividend was declared. Hence, a dividend declared November 1, 1870, out of the profits of the six months next preceding, would be liable to tax at the rate of 5 per cent upon so much thereof as was earned to August 1, 1870, and a tax of 2½ per cent on the remainder. A dividend declared since December 31, 1871, from profits which accrued prior to January 1, 1872, is liable to tax on the whole amount. A dividend declared since December 31, 1871, out of profits which accrued partly before and partly since that date, is liable upon so much thereof as was earned prior to it. (T. D.; July 13, 1874.)

**Seizure of spirits for discrepancy between marks and brands.**

Whenever an examination of any distiller's original package shows an excess of spirits over and above the quantity which, according to the marks, stamps, and brands on such packages, might be lawfully contained therein, it should be detained for investigation. A careful gage should be made and reported to this office in order that assessment may be made against the distiller for the amount of tax due; and the name of the distiller and of the gager should be reported to the Commissioner of Internal Revenue for action. (T. D.; July 16, 1874.)

**Stamping unstamped instruments.**

Attention is called to the act approved June 23, 1874, providing for the stamping of unstamped instruments, documents, or papers theretofore made, signed, or issued before a judge or a clerk of a court of record. It is held that no penalty is required

**Stamping unstamped instruments**—Continued.

on stamping instruments in this manner. It is considered, however, that this is an additional privilege allowed for the convenience of parties and that it does not take away the authority of a collector to stamp instruments under former laws still in force, if that be desired. (T. D.; August 4, 1874.)

**Liability of stamps, checks, etc., payable "one day after date."**

In response to an inquiry respecting the liability to stamp duty of checks or drafts payable "one day after date without grace," and also of receipts used as a substitute for bank checks, it is held that bank checks, drafts, or orders payable at sight or on demand, drawn by any party for any amount, upon a bank, banker, or trust company are subject to a stamp tax of 2 cents. All other papers issued on or after October 1, 1872, are exempt. (T. D.; September 2, 1874.)

**Abatement of litigated taxes.**

When a suit for the recovery of a tax is decided against the United States on the merits of the case, and the decision is accepted as final, the collector, immediately thereafter, should present to the Commissioner of Internal Revenue a claim for the abatement of the tax on the proper form. The affidavit may be made by the collector or any other person knowing the facts. It should be accompanied by a certificate of the clerk of the court in which the case was tried, the amount of the bond, if any, the amount sued for, and that judgment was rendered for the defendant; also showing that the judgment was upon the merits of the case and not on a mere technicality in the pleadings, or on other grounds that would not prevent another suit. The United States district attorney should attach his own signature to the same effect. (T. D.; August 5, 1874.)

**Execution for taxes returned nulla bona.**

When a suit for the recovery of a tax is decided in favor of the United States and execution issued and returned nulla bona, as respects the whole or a part of the judgment, the collector should satisfy himself by careful inquiry whether any personal property can be found to satisfy the judgment in whole or in part, and whether there is any real estate which can be subjected by distraint or by suit in equity under section 106, act of July 20, 1868, to sale in satisfaction of the judgment; and if he should be fully satisfied that there is no such real or personal property, he should thereupon present to the Commissioner of Internal Revenue a claim on proper form for abatement of the amount which has not been and can not be collected, making a statement thereon of his action, accompanied by a certificate of the clerk of the court as to the facts. (T. D.; August 5, 1874.)

**Claim for abatement on dismissal of suit.**

When a suit for taxes is dismissed upon a technicality in the proceedings, or when an adverse verdict is rendered on some technical ground not reaching the merits of the case, and the right to a new trial or to an appeal has lapsed and the tax can not be collected by distraint, nor by suit in equity to subject real estate to sale, the claim for abatement of the taxes should be made on forms 48 and 53. (T. D.; August 5, 1874.)

**Marks, etc., on distilled spirits open for inspection.**

The question being presented as to whether or not dealers may be allowed when shipping distilled spirits to place the stamped and branded packages containing the same in another package in order to prevent the abstraction of the spirits by persons, it is held that the marks, brands, and stamps required by law and regulations to be applied to casks of distilled spirits are designed to bear open witness to the legality of the merchandise in question, and they must not be obscured or covered by encasing the vessel containing the spirits in another, but must at all times be in such condition as to admit of an examination of the said marks, brands, and stamps by revenue officers. (T. D.; September 30, 1874.)

**Damages for illegal seizure by collector.**

In an action of trespass to recover damages for an illegal distraint and sale of personal property by a collector, the United States circuit court for the southern district of New York, *Held*, that a collector should present as his warrant for the collection of tax a copy of the assessment certified to by the assessor. A duplicate list of the return made by the assistant assessor of taxes assessed is not sufficient evidence that a legal assessment has been made and gives no sufficient warrant for the seizure of property. (T. D.; October 19, 1874.)

**Bonds of distillers—Taxes and penalties.**

In the case of Osborne *v.* United States, from the eastern district of Pennsylvania, it being a suit on a distiller's bond, the Supreme Court of the United States *Held*, that—

(1) A distiller's bond, taken in pursuance of the act of July 20, 1868, imposing taxes on distilled spirits, and which enacts that "a distiller shall, on filing with the assessor notice of intention to commence business, make a bond with sureties to be approved by the assessor, and that no bond of a distiller shall be approved unless he is the owner in fee, unincumbered, of the land on which the distillery is, or unless he files with the assessor in connection with his notice, the written consent of the owner of the fee, and of any person having a lien thereon, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law and stipulating that the lien of the United States for taxes and penalties shall have priority of such incumbrance, and that in case of the forfeiture of the distillery premises, the title of the same shall vest in the United States, discharged from such incumbrance," is not void even as against sureties to the bond, because the ground was incumbered, and because, it being so, the bond was approved without the consent of the incumbrancers to postpone their liens, the bond not having been delivered as an escrow simply.

(2) This is not altered by the fact that if the consent of the incumbrancers had been got to postpone their liens, the ground on which the distillery stood was of sufficient value to discharge the taxes due by the distiller, and so relieve the sureties from their personal obligations. (T. D.; October 26, 1874.)

**Number of cigar manufactory—Change of location.**

Answering the question whether the number of a cigar manufacturer's factory has to be changed when the manufacturer moves his factory from one house to another, the commissioner holds that the number of a cigar factory provided for in section 84, act of July 20, 1868, is understood as applicable to the building or to that part of the building constituting the factory, and not to the manufacturer. Therefore, when a cigar manufacturer leaves a factory, he does not take with him the number of the factory, and consequently his subsequent place of business or factory must have some other number. (T. D.; January 19, 1875.)

**Receipts substituted for bank checks taxable.**

Section 15, act of February 8, 1875, provides that a bank check, draft, or voucher for the payment of any sum whatsoever, drawn upon any bank, banker, or trust company, shall be subject to a stamp tax of 2 cents. By this enactment, checks, drafts, etc., drawn on time, are liable to the stamp tax as well as those payable at sight, or on demand, as are, also, receipts or other vouchers taken by banks, etc., for the payment of money. (T. D.; February 9, 1875.)

**Tax upon cigarettes, domestic and imported.**

No additional impost or tariff was imposed by section 4, act of March 3, 1875, upon cigarettes imported from foreign countries, but by section 3402, Revised Statutes, it is provided that all cigars imported from foreign countries shall pay in addition to import duties imposed thereon the tax prescribed by law for cigars manufactured in the United States, and shall have the same stamps affixt. Under this provision of law, it is held that imported cigars and cigarettes are liable to the same increased

**Tax upon cigarettes, domestic and imported**—Continued.

rate of tax as the law imposes on cigars and cigarettes manufactured in the United States, and that such increased rate of tax applies to all cigars and cigarettes imported or to be imported into the United States, the internal-revenue tax not having been paid by suitable stamps affixt to the boxes containing the same prior to March 3, 1875. (T. D.; March 18, 1875.)

**Real estate purchased at tax sale.**

On the expiration of the year allowed for the redemption of real estate purchased at tax sale by the United States, without redemption having been made, the collector should immediately make deed to the United States, record, and deposit the same with the United States district attorney. He should also advise the local tax assessors that the United States owns the real estate in question. But it is to be observed that the United States is not regarded as to either State or other taxation, and the collector of internal revenue should so state to such local tax assessors on advising them as to the ownership by the United States. (T. D.; March 12, 1875.)

**Notes and drafts, etc.—Liability to stamp tax.**

As to the liability to stamp tax of notes and drafts made payable at a bank, it is not believed to have been the meaning and intent of Congress to require stamps on promissory notes made in the ordinary course of business, payable at a bank when such notes are given in good faith. Under a strict interpretation of the law, they might be held liable as "vouchers." It is well known, however, that the leading purpose of the recent enactment (February 8, 1875) was to cut off the frequent evasions of the stamp tax on checks, as, for instance, by the use of receipts, checks payable nominally one day after date without grace. (T. D.; April 2, 1875.)

**Stamping unstamped instruments.**

The act of June 23, 1874, allows parties having an interest in instruments, documents, and papers theretofore made, signed or issued liable to stamp tax, and remaining unstamped, to stamp such papers before a judge or clerk of a court of record, in the manner prescribed by the act, at any time prior to January 1, 1876, without a penalty. But, in some cases, parties may still prefer to have such instruments stamped by a collector. The collector is authorized to stamp them when presented according to the provisions of section 3422, Revised Statutes, as amended by the act of February 18, 1875, but can not remit the penalty in any case after twelve months from the issue of the instrument. (T. D.; April 12, 1875.)

**Seizure of papers, etc., under revenue laws.**

The United States district court for the eastern district of Wisconsin, in the case of the United States *v.* Three Tons of Coal, etc., involving several causes of seizure under the internal-revenue laws, *Held*, that—

(1) The act of June 22, 1874, providing for the production of books, papers, and documents in suits and proceedings, other than criminal, arising under the revenue laws of the United States, is not repugnant to the Constitution.

(2) Proceedings under our revenue laws against property which it is claimed is subject to forfeiture because of alleged delinquency in the use of that property in a business regulated by law are entirely unlike in principle to the cases of seizure condemned by the courts of England as repugnant to Magna Charta. (T. D.; August 9, 1875.)

**Mutilated stamps redeemed.**

Where a stamp has been mutilated by accident and the portion described can not be returned by reason of having been lost or destroyed, an affidavit setting forth the facts in the case will be made by the rectifier or wholesale liquor dealer and the same should be attached to a proper form and sent therewith to the collector. If the collector is satisfied that the statements are true in all respects he will attach his own certificate to that effect and forward the same to the Commissioner of Internal Revenue. (T. D.; August 17, 1875.)

**Examination of banks.**

Internal-revenue officers are instructed that the examination of national banks for the purpose of ascertaining whether the bank checks, drafts, orders, or vouchers for the payment of money received by them and stamped as required by law, will hereafter be made by bank examiners under the direction of the Comptroller of the Currency and not by officers of internal revenue. The examination of banks, trust companies, and banks other than national banks should continue to be made as heretofore by internal-revenue officers. (T. D.; September 21, 1875.)

**New coupon stamps for rectified spirits.**

It having been decided to change the form of stamps for rectified spirits, so that the stamp itself shall indicate the number of proof gallons contained in the packages to which it is affixt, it is ruled that, in future, whenever under the regulations of the Bureau of Internal Revenue it becomes necessary to affix a stamp for rectified spirits, one of the proper denominations, with the necessary coupons, if any, which may be required to indicate the proof gallons, or the wine gallons where the "proof" is not ascertainable, or contained in the package, it will be filled out, signed by the gager, detached from the proper book, and attached to the package. Collectors are required to return to this office all stamps and stubs of the kind heretofore in use. (T. D.; September 25, 1875.)

**Stamping, canceling, and branding cigars.**

Each collector is advised and directed to seize or cause to be seized all cigars found upon the market under stamps not canceled as required by law and in the manner prescribed in the regulations of the Bureau. Collectors are likewise directed to seize or cause to be seized all cigars found upon the market, packed in wooden boxes, or boxes made partly of wood and partly of other materials, when such boxes of cigars so packed shall not have burned into each box with a branding iron the number of the cigars contained therein, the name of the manufacturer, and the number of the district and State, as required and prescribed by law, and particularly specified in the regulations of this office. (T. D.; September 25, 1875.)

**Failure to efface stamps, etc., on distilled spirits.**

In the case of the United States *v.* Adler and Furst, where, under a statute of the United States regarding internal revenue, the defendants were indicted for failing to deface and obliterate from casks or packages of distilled spirits, at the time of emptying, marks, brands, or stamps required to be thereon, the United States district court for the western district of Missouri, *Held*, that—

(1) The offense of failing to deface and obliterate the marks, stamps, and brands required by law to be upon a package of distilled spirits at the time of emptying the package, is complete without any intent to defraud or purpose to violate the law.

(2) If a person causes a package of distilled spirits to be emptied, it is a personal duty resting upon him to see that the stamps, marks, and brands thereon are effaced and obliterated at the time the package is emptied, and responsibility for a failure to perform this duty can not be shifted from himself by directing another to do the same for him.

(3) The owners and operators of a rectifying establishment, changing furnishing material, and receiving the profits of the business, may be said to cause the emptying of the distilled spirits used in their business by those in their employ.

(4) A principal who causes a package of distilled spirits to be opened by an employee is bound to see that the marks, stamps, and brands thereon are effaced and obliterated at the time the same is emptied. If he trusts the performance of this duty to an employee he does so at his peril, and, if the employee fails to do it, such failure is equally the failure of the principal. (T. D.; October 4, 1875.)

**Claims against the Government.**

In the case of United States *v.* John L. Bittinger, wherein the defendant was indicted for making, in due and legal form, certain false, fictitious, and fraudulent claims against the Government, the United States district court for the western district of Missouri *Held* that—

(1) Making a claim against the Government of the United States consists in asking or demanding payment for services. The object of the statute is to prohibit and punish the drawing of money from the Treasury of the United States without having rendered legal and recognized equivalents.

(2) The terms "false," "fictitious," and "fraudulent," used in the statute, have no special legal signification. By the word "knowing" is meant having a certain and clear perception of the falsity of the claim made.

(3) Under the authority of the law the Commissioner of Internal Revenue has a right to make regulations concerning gaging and in relation to gagers, and these regulations are binding and obligatory upon gagers.

(4) Section 3290 of the Revised Statutes does not authorize a gager to delegate his authority or to have his duties performed for him; nor do the statutes or regulations anywhere authorize such a delegation or substitution. (T. D.; October 25, 1875.)

**Money borrowed and received daily not taxable.**

It is held that money borrowed or received from day to day in the usual course of business from a person not a partner nor interested in a bank, association, or firm is not taxable as capital. Bonds purchased with such money should not be deducted in determining taxable capital. Such money has in fact already been exempted from taxation under the proviso to section 3408, Revised Statutes, and can not be made the subject of further exemption. (T. D.; November 2, 1875.)

**Retention of witnesses' fees.**

In view of the fact that some internal-revenue officers are in the habit of retaining witnesses' fees received by them for attendance upon United States courts in behalf of the Government on days covered by their bills for annual or daily pay, it is ruled that this office, having in mind the provisions of sections 850 and 1765, Revised Statutes, is not warranted in assenting to said retention of such fees, or those received in any other case where the fees are paid by the United States, altho the United States may have been reimbursed for the same. (T. D.; November 9, 1875.)

**Application of the act of June 22, 1874.**

In the case of United States *v.* Distillery 28 and Other Property, Judge Gresham, of the United States district court for the district of Indiana, delivered the opinion on the revenue laws affecting distilleries, *Holding*, That the fifth section of the act of June 22, 1874, applies to proceedings under the internal-revenue laws as well as under the customs-revenue laws. The act is constitutional, and the act of 1868, as far as it is repugnant to it, is repealed by the latter enactment. The order of the court under this act, calling for the production of books and papers, authorizes neither search nor seizure, but the failure to produce the papers is taken as a confession of the libel. (T. D.; November 9, 1875.)

**Accounts and production of cigar manufacturers.**

If the account of a cigar manufacturer upon examination shows that more cigars have been made than have been accounted for, or if a sufficient number of stamps have not been purchased to cover the cigars reported as sold, or if there is a disproportion between the material had and used and the number of cigars reported as made, then a calculation is made of the number of cigars which ought to have been produced and reported from a given quantity of material. (T. D.; November 18, 1875.)

**Assessments upon accounts of cigar manufacturers.**

Recalling the ruling with regard to the principle adopted by this office in the matter of assessments upon accounts of cigar manufacturers, and especially with regard to certain credits or allowances to be made in such cases, it is held that the law requires a cigar manufacturer to return all the cigars he makes and affix stamps thereto for the payment of tax. If he omits to affix stamps and sells or removes cigars without doing so, the Commissioner is required to estimate the amount of tax omitted ot be paid upon the best information he can obtain. For this purpose the cigar manufacturer is required to keep a Government hook and make daily entries of sales and purchases of materials and products, to make annual inventories, monthly returns, etc.; the leaf dealer to keep a book in which he makes similar entries; and the collector an account of all stamps sold, together with an account with each manufacturer of all his transactions in which the Government has an interest. (T. D.; November 18, 1875.)

**Inventories of cigar manufacturer's stock—"Actual" weights.**

With reference to the difficulties in the way of procuring the "actual" weight of leaf tobacco, scraps, clippings, etc., from the ordinary cigar manufacturer in making upon the inventory, it is held that, in requiring "actual," and not "estimated weights," the rule applies to broken packages of tobacco and scraps and clippings only which the manufacturer has loose in his factory. It is not intended to require a reweighing of full or unbroken packages which have been purchased and entered at market weight. All such packages are to be entered in the inventory as they were entered previously on the monthly report when remaining on hand unbroken at the close of the year. The annual inventory is a very important matter, being regarded as a practical, not to say vital, element in all calculations and computations by the Bureau of Internal Revenue, and it must be so nearly correct that neither the Government nor the manufacturer should ever have occasion to go back of it. (T. D.; January 8, 1876.)

**Concealing cigar manufacturer's label.**

Section 3393, Revised Statutes, provides that every manufacturer of cigars shall securely affix by pasting on each box containing cigars manufactured by or for him a label on which shall be printed, together with the proprietor's or manufacturer's name, the number of the manufactory and the district and State in which it is situated, etc. The affixing of the label is the duty of the cigar manufacturer exclusively, and the failure to affix such label will subject him to a penalty of $50. The law prohibits the removal of this label by any person under a penalty of $50, and it is held that any dealer or other person who covers up and conceals the manufacturer's label by pasting over it a similar one of his own, on which he has his own name printed as "proprietor," as effectually removes the label as if he washed or scraped it off, and is therefore liable to the penalty of the law. (T. D.; January 10, 1876.)

**Retailing cigars from glass jars unlawful.**

It is held that the practice of selling at retail tobacco and cigars from glass jars, show cases, etc., the stopping of which seems more particularly to have called forth the protest of dealers, while it may be a convenient practice to small dealers, and may, if permitted, augment to some extent the revenue from special stamps to dealers in manufactured tobacco, is still a palpable violation of law. (T. D.: January 10, 1876.)

**Information as to frauds relating to distilled spirits.**

The experience of the Bureau of Internal Revenue has been that where fraud is being perpetrated by distillers the honest manufacturers and dealers are among the first to discover it, but have been heretofore restrained from giving information thru fear of being compromised in some way or by a natural aversion to being termed

**Information as to frauds relating to distilled spirits**—Continued.

"informers." It is due to honest manufacturers, as well as to the Government, that every gallon of spirits placed upon the market should pay the tax imposed by law. This result can be attained only thru the vigilance of revenue officers, sustained by the honest portion of the trade. Distillers and dealers in liquors are assured that their communications, conveying to the Bureau information of fraud, will be treated as strictly confidential and made the basis of prompt investigation. (T. D.; April 26, 1876.)

**Transmission of internal-revenue stamps.**

Taxpayers should be notified by collectors that stamps will be transmitted by mail only on receipt of specific directions to that effect, and when so transmitted they will be at the risk of the person or firm ordering the same, as the Government will in no case assume any responsibility for their safe transmission, nor can any allowance be made under existing laws on account of stamps lost. (T. D.; April 25, 1876.)

**Bonds given by partnerships and corporations.**

The word or term "person," in sections 3355 and 3387, Revised Statutes, is deemed and held to extend to and be applied to partnerships and corporations. Whenever a bond given by a company or corporation shall be signed by the president, secretary, treasurer, or other officer duly authorized by said company or corporation, and attested by its corporate seal, it is held to be an act binding the company or corporation, and all the stockholders thereof, to the fulfilment of the conditions of such bond to the extent of the individual liability imposed upon them by the act of incorporation. (T. D.; April 29, 1876.)

**Joinder of several counts making one offense under indictment.**

The United States circuit court, Judges Dillon and Treat presiding, in the case of the United States *v.* Maguire, wherein the defendant pleaded guilty to five counts of an indictment charging him respectively with having knowledge and information of frauds upon the revenue, committed at different times, by five different distillers, *Held*, That the defendant should be sentenced as for one offense, but the general question as to the power to render cumulative judgments was left open for further consideration. (Decision dated April 8, 1876.)

**Requirements of section 45, act of 1868.**

The United States district court for the southern district of New York, Judge Blatchford presiding, in the case of the United States *v.* Seymour McCullough, *Held*, That

(1) Dealers in foreign as well as in domestic spirits are subject to the requirements of section 45, act of 1868, incorporated into the Revised Statutes, and are obliged to keep the books therein provided, and, in so far as they can, to make the entries therein specified.

(2) Under this act, and under the warehouse act, the bonded warehouse in which the liquor dealer stores his goods is to be regarded as his premises for the purposes of this suit, the warehouse becoming, by a transfer of the goods in bond, the premises of the vender instead of the vendee. (T. D.; June 19, 1876.)

**Debt due the United States—Suit on distiller's bond.**

In the case of the United States *v.* Triplett et al., the defendant being indebted to the United States, his distillery was levied on and sold to the plaintiff at the sum due by the defendant to the United States. Subsequently it was ascertained that the property in question was encumbered by liens existing prior to his commencing business as a distiller to an amount larger than the prior liens. In a suit brought on the bond of the distiller the United States court for the district of Virginia, April 1876, *Held*, That the sale of the premises to the plaintiff extinguished the debt, and that it made no difference whether the defendant had any interest in the property or that the purchaser acquired no title, nor is it material that the United States, and not an individual, was the purchaser. (T. D.; April 8, 1876.)

**Exemptions from section 3264, Revised Statutes.**

In pursuance of the authority vested in the Commissioner of Internal Revenue by section 3255, Revised Statutes, and with the approval of the Secretary of the Treasury, distillers of brandy made exclusively from apples, peaches, or grapes are exempt from the provisions of section 3264, Revised Statutes, whereby the assistant to be designated as assistant to the collector is required to be designated in each instance for the purpose of making each survey. Assistants to collectors may be hereafter designated generally for the purpose of making any and all surveys of such distilleries. When practicable deputy collectors should be nominated for this purpose. (T. D.; July 8, 1876.)

**Wholesale liquor dealer's stamp.**

It is held that, in making application for a wholesale liquor dealer's stamp, the first application for a stamp to cover spirits to be drawn from any package must be accompanied by a piece of the stamp, which must be so cut therefrom as to indicate the name of the collector by whom issued, the wine gallons, the serial number of the original package (if indicated), the serial number of stamp on original package, the present proof, and the serial number of the stamp from which the piece is cut. (T. D.; August 22, 1876.)

**New wholesale liquor dealer's stamp.**

If, after selling a portion of the spirits from a cask or package, the dealer wishes to dispose of the balance remaining in the original package bearing the remnant of a stamp, he will be required to make application for a stamp or stamps to cover such balance, either in such original package or other packages to which it may be changed; and, if to be sold in the original package, the remnant of the stamp and all marks and brands shall be erased from said package as required by law and existing regulations. In no case shall dealers be allowed to sell the spirits remaining in a package bearing the remnant of a stamp, or remove the package with such spirits therein from their premises, unless each package is restamped with a wholesale liquor dealer's stamp. (T. D.; September 2, 1876.)

**Telegraphic expenses—Economy required.**

The telegraph must not be resorted to by officers at the expense of the Government, except where the business is of the most urgent character, involving the Government's interests. When telegrams are sent for the personal benefit of taxpayers or internal revenue officers, the regulation requiring them to be prepaid by the party benefited must be strictly observed. Collectors are directed to make such arrangements as will enable them to send orders for stamps by mail. If care be taken by them to send such orders before their supply is exhausted, the necessity of telegraphing will, to a great extent, be avoided. (T. D.; September 6, 1876.)

**Validity of survey and estimate.**

The survey and estimate, under the act of July 20, 1868, of the producing capacity of a distillery is valid and binding until abrogated by a new survey and estimate under the authority of the Commissioner of Internal Revenue. When there is a failure to furnish the distiller with a copy of the survey he is liable for the taxes determined by the previous survey. (T. D.; October, 1876.)

**"Profits used in construction" construed.**

In the case of Henry A. Grant, collector of internal revenue, plaintiff in error, *v.* The Hartford and New Haven Railroad Company, Justice Bradley, of the United States Supreme Court, October term, 1876, *Held* that the expression "profits used in construction," within the meaning of the internal revenue act of June 30, 1864, does not embrace earnings expended in repairs for keeping the property up to its normal condition, but has reference to new constructions adding to the permanency of the capital, and when these are made to take the place of prior structures, it includes only the increased value of the new over the old when in good repair. (T. D.; December 18, 1876.)

**Stills for pharmaceutical and scientific purposes—Special tax.**

With a view to avoiding the unintentionally restrictive effect of a former ruling as to the lowest capacity of stills actually used for the distillation of spirits, the Commissioner concludes to so modify the rule on the subject of taxing manufacturers of stills as to hold that no tax should be required on account of the manufacture of a still of the capacity of 5 gallons or less, unless it shall appear that the still has been, in fact, used for the purpose of distilling spirits, and that the manufacturer knew, or could with proper inquiry have known, at the time of disposing of the still that it was intended to be so used. (T. D.; December 18, 1876.)

**Registration of stills.**

On the question of the registration of stills, section 3258, Revised Statutes, requires the registration of "any still or distilling apparatus set up," and expressly provides that one of the items to be included in the registry statement shall be "the purpose for which said still or stilling apparatus has been or is intended to be used." It is held by the Commissioner that the requirements of section 3258 apply to all stills "set up," of whatever size and for whatever purpose intended. (T. D.; December 18, 1876.)

**Prohibition of the sale of spirits or wines in Indian Territory.**

Under the amendment of section 2139, Revised Statutes, having reference to the sale of spirituous liquors in the Indian country, the exemption of "an Indian" from the prohibition of the statute was abolished. Indians, as the statute is now, are subject, as other persons, to the fine and imprisonment provided, and to the prohibition against selling spirits or wines to Indians under the charge of any Indian superintendent or agent. (T. D.; April 16, 1877.)

**Banking capital invested in real estate.**

The Attorney-General of the United States having announced the opinion that every banking corporation should be assessed for the fixt amount of its capital, minus the sum put in Government bonds, the Commissioner directs that, hereafter, assessments will be made in accordance with this opinion, any instructions heretofore given to the contrary notwithstanding; and all returns for assessment of banks, banking associations, companies, and corporations, and of bankers will be required to embrace the entire amount of paid up capital of the bank, etc., and the entire capital employed by any private bank or banker in the business of banking. No other deduction than that allowed for United States bonds will be granted. (T. D.; May 8, 1877.)

**Dealers in tobacco stems liable to special tax.**

In consideration of the inquiry whether, in the business of buying, selling, and shipping tobacco stems, there is incurred liability to special tax as a dealer in leaf tobacco, it is held that any person whose business it is to sell strips, or stemmed leaf, or to sell tobacco stems, including scraps, cuttings, and clippings in bulk as a dealer, comes within the terms of the statute defining a leaf dealer, or a dealer in leaf tobacco, and must pay a special tax as such and keep the books and make the entries therein which the law requires. (T. D.; July 18, 1877.)

**Leaf tobacco dealers and special tax.**

Strips, scraps, cuttings, clippings, and stems are all component parts of the natural leaf tobacco, and are material which constitutes the basis of manufactured tobacco or cigars. They are articles of traffic and have a commercial value. Strips or stemmed leaf, no less than the natural and normal leaf, are acknowledged to be leaf tobacco. The dealer in strips is acknowledged to be a leaf dealer and pays tax as any other leaf dealer, tho he traffics in only a portion of the natural leaf. By parity of reason, the man who deals in tobacco stems after they are stripped from the flat, extended portion of the leaf, is a dealer in leaf tobacco and, like the dealer in the natural leaf and the dealer in strips, must pay a special tax. (T. D.; July 18 1877.)

**Delivery of goods sold—Completion of sale.**

Delivery of goods sold is essential to the completion of every sale—such a delivery as shall transfer the ownership from the vendor to the vendee, subject, it may be, to the right of stoppage in transitu. This delivery may be either actual or constructive. The delivery of the bill of sale of a quantity of distilled spirits may be a constructive delivery of the goods themselves—such a delivery as will transfer the property of the vendee, even tho the property itself is in some other place. But to make the delivery of a bill of sale a delivery of the spirits, the bill must itself contain such a descr ption of the spirits sold, such a separation from all other spirits by specification of serial numbers, marks, and brands, or otherwise, as to fully identify and distinguish them, and show, not merely how many gallons, or how many packages are sold, but exactly which ones. (T. D.; August 6, 1877.)

**Place of actual sale of liquors.**

A bargain and sale, completed by actual delivery of the goods, should be regarded as a sale made at the place where the bill was delivered. For that place, the person who makes the sale should pay special tax as a liquor dealer, and at that place, if his sales are in quantities of 5 gallons or more, he should keep a wholesale liquor dealer's book. If the spirits are stored elsewhere he need not pay special tax for the place of storage from which the subsequent actual delivery is made. (T. D.; April 6, 1877.)

**Medicines gratuitously distributed liable to stamp tax.**

An article liable to stamp tax, under Schedule A, requires to be stamped before it is removed from the place of manufacture for gratuitous distribution. Removal from the place of manufacture would be regarded as a removal for consumption—for use—and all articles removed for consumption or for use must be stamped. This has been the uniform ruling of this Office, affirmed by a published opinion of the Attorney-General of the United States, to whom the question of liability of sample packages of medicines not sold, but distributed gratuitously, was submitted for an opinion. (T. D.; August 15, 1877.)

**Limitation on number of relatives employed.**

Reports of collectors of internal revenue made from a number of districts, disclosing the fact that a number of persons employed by collectors were to a large extent related by blood or by marriage to such collectors, or related to each other, so that in fact the selection of employees in many instances was confined to a few families, and regarding this condition of affairs as an abuse of administration incompatible with the best public interests, the Commissioner rules—

(1) Of persons related to the collector by blood or by marriage, only one shall be retained in office.

(2) Of persons not related to the collector but related to each other by blood or by marriage, only one shall be retained in office.

This order is directed to take effect October 1, 1877. (T. D.; August 17, 1877.)

**Samples of spirits in bonded warehouses.**

The examination of spirits by sample will be allowed under the following restrictions, viz: The aggregate quantity removed from any cask of spirits, while in warehouse, shall not exceed half a pint. No sample shall be taken from any package except by the owner, nor shall any goods be exhibited or examined in the warehouse, except under the immediate supervision of the storekeeper, or of the storekeeper and gager in charge of the warehouse. Such storekeeper, or storekeeper and gager, must keep a record of each sample taken in such a manner as will enable him to detect and to report with conclusive proof any attempted abuse of this privilege. (T. D.; October 11, 1877.)

**Claims for abatement, compromise, etc., before the Commissioner.**

In all claims for abatement, refunding, drawback, or reward for information, all applications for compromise, all contested questions as to the claims of the Government for taxes not assessed, and generally in all matters wherein additional testimony is required to be taken, no ex parte affidavit or deposition will be considered unless the same shall have been taken after due notice to the Commissioner of Internal Revenue—the notice to be mailed or delivered to the Commissioner a sufficient number of days to enable him to give instructions as to cross-examination of the proposed witnesses. (T. D.; October 30, 1877.)

**Premises of a cigar manufacturer.**

Answering requests for an opinion as to what constitutes premises or apartments of a cigar manufacturer, it is held that the law does not allow the sale of cigars at retail, or in quantities less than an entire and unbroken box of 25, 50, 100, 250, or 500 cigars at the factory or place where they are made. This provision of law can not with the sanction of this Office be rendered null and void by permitting the manufacturer to use one-half of a room as his factory and the other half as his sales room or store, simply dividing or separating the two kinds of business by an imaginary line, or by a temporary railing, or other like expedient. (T. D.; November 22, 1877.)

**Use of apparatus for aging whisky and other spirits.**

Having given consideration to the question whether the use in distillery warehouses of an improved apparatus which by a process of agitation of the spirits is given to the platform on which barrels of spirits are stored, the Commissioner decides as follows:

(1) That the effect produced on distilled spirits by agitation at any given temperature is not rectification.

(2) That there is no legal objection to heating a distillery warehouse by means of steam introduced by pipes used in the ordinary manner of heating purposes.

(3) There is no legal objection to introducing into a warehouse Peiffer & Richard's apparatus for aging whisky and other spirits. (T. D.; December 4, 1877.)

**Improved methods in the manufacture of spirits allowable.**

It is held that the provisions of law thrown around the manufacture of spirits are intended simply to secure the collection of the tax imposed by law, but said provisions should receive so rigid and technical a construction as to prohibit the introduction of new methods or appliances in the manufacture or improvement of spirits where such methods or appliances can in no way endanger the collection of the tax due the Government. (T. D.; December 4, 1877.)

**Forfeiture proceedings are common law proceedings.**

Ordinary proceedings for a forfeiture under the internal-revenue laws of the United States are proceedings at common law and must be governed by the practise of common law courts; and by that practise the court has lost the power to open a judgment when the term at which it was entered has gone by. This ruling is applicable where goods were seized by the Government, on land, for an alleged breach of the internal-revenue law governing the rectification of spirits, and upon a default and an ex parte hearing were condemned and a warrant issued for their sale. (T. D.; February 18, 1878.)

**Forfeiture of unstamped spirits.**

In the case of the United States, plaintiff in error, *v.* Two Hundred Barrels of Whiskey, involving a question as to unstamped spirits and forfeitures, the Supreme Court of the United States, October term, 1877, *Held*, that where a rectifier or wholesale liquor dealer knowingly omits to cause packages of distilled spirits containing more than

**Forfeiture of unstamped spirits**—Continued.

20 gallons each on his premises to be gaged, inspected, and stamped in accordance with section 25, act of July 20, 1868, the property is liable to forfeiture under section 57 of that act, but the forfeiture imposed by section 96 does not apply. Nor can it be made to apply by any rules which the Commissioner of Internal Revenue prescribes under section 2, act of July 20, 1868. (T. D.; January 7, 1878.)

**Examination by revenue officers of unstamped bank checks.**

It was *Held* by the Supreme Court of the United States, October term, 1877, that section 3177, Revised Statutes, does not authorize a revenue officer to enter a place of business to examine bank checks, unless it is alleged and proved that such bank checks were not duly and sufficiently stamped at the time they were made, signed, and issued. (T. D.; January 7, 1878.)

**Enforcement of forfeiture under revenue laws.**

The Supreme Court of the United States, October term, 1877, in the case of Thomas S. Dobbins, plaintiff in error, *v.* The United States, relating to the enforcement of forfeiture under the revenue laws, *Held* that the offense of neglecting and refusing to keep the books which the law requires a distiller to keep attaches primarily to the distillery, and the real and personal property used in connection with it. The owner of a property who suffers it to be occupied and used as a distillery can not save his property from forfeiture by pleading innocence of personal misconduct or responsibility. (January 7, 1878.)

**Commissions to collectors.**

As interpreted by the Supreme Court of the United States, the act of July 20, 1868, does not change the rule established by the act of July 13, 1866, concerning commissions to collectors of internal revenue on taxes collected upon articles transferred from one district to a bonded warehouse in another district. (T. D.; January 7, 1878.)

**Legacy tax—Government bonds.**

In response to the inquiry as to whether so much of the estate of the late Admiral Dahlgren as was invested in Government bonds, or was the product of Government bonds, is exempt from the tax on legacies and distributive shares, it is held that the fact that certain distributive shares arising from the personal property of an estate are represented by bonds of the United States does not constitute ground for holding such shares to be exempt from tax on legacies and distributive shares under the internal-revenue laws. The legacy tax is a tax upon a privilege accorded by the State. It is not a tax upon property even though the amount of tax is measured and determined by a certain percentage on the property itself. In this connection reference may be made to a decision of the Supreme Court of the United States in the case of Mager *v.* Groma (8 Howard, 490). (T. D.; January 28, 1878.)

**Action of debt on a distiller's bond.**

In action of debt against the firm of Myers et al., the United States circuit court, eastern district of Virginia, at Richmond, February 6, 1878, the suit being by the Government on a distiller's bond for the amount of an assessment made by the Commissioner of Internal Revenue, it was *Held* by the court that, under section 3182, Revised Statutes, it is competent for the defendant to produce evidence to show the incorrectness of the assessment, and to contradict it, although he has not first appealed to the Commissioner against the assessment. Where the Government in such a trial fails to show by positive evidence that frauds (which might as probably or more probably have been committed at the rectifying house) were committed at the distillery, and the defendant by all the testimony that could well be brought to establish a negative shows that the frauds were not committed at the distillery, and that they were probably committed at the rectifying house, and the jury refuses to find

**Action of debt on a distiller's bond**—Continued.

a verdict for the Government merely on the presumption that the frauds were committed there, the court will refuse to grant a new trial asked for on the ground that the verdict for the defendant was against the law and evidence. (T. D.; February 4, 1878.)

**Leaf tobacco sale at retail.**

In reply to verbal inquiries from collectors relative to former instructions given by Commissioner Douglass, it is held that said instructions can not be rightly interpreted as authorizing the sale of leaf tobacco at retail in any quantity called for and weighed out from broken packages, put up and delivered at the time of sale. The leaf dealer must repack in anticipation of the wants of his customers, and sell them unbroken in packages previously prepared hy him for sale—otherwise he renders himself liable as a retail dealer. (T. D.; February 8, 1878.)

**Action on bond for malfeasance, misfeasance, etc.**

In the case of United States *v.* Edward F. Cullerton, in the United States circuit court for the northern district of Illinois, it being an action for debt on a bond given by defendant, the court *Held*—

(1) Under section 3156, Revised Statutes, prescribing penalties for the misfeasance, malfeasance, or nonfeasance of revenue officers the right of action on the bond for damages is reserved to the Government until judgment in a criminal proceeding for the same offense is satisfied.

(2) Pleas of former conviction and punishment and of pardon are a complete answer to a suit for the same offense. (T. D.; March 4, 1878.)

**Supplies of tobacco to employees exempt from tax.**

It has been and is now held that a farmer or planter who simply supplies his employees with what manufactured tobacco they need for their own personal use and for their special accommodation, and not with a view to gain or profit, is not regarded as engaged in the business of selling manufactured tobacco, and should not be required to pay special tax for thus supplying his hired laborers with tobacco. This ruling is intended to embrace all cases where farmers and planters furnish supplies of tobacco to their laborers, whether paid by the year, week, or day. (T. D.; April 4, 1878.)

**Conditions of a tobacco peddler's bond.**

The conditions of a tobacco peddler's bond and the penalties provided for a violation of said bond, to wit, fines and imprisonment, preclude the idea of issuing a special tax stamp and certificate as a peddler to any other person than the one who actually travels and makes the sales, or of permitting any substitute to travel and sell in his stead. (T. D.; May 13, 1878.)

**Vinters exempt from special tax.**

Under the general law, a tax is imposed upon every person who sells wine or offers it for sale. There is one exception—the vinters who sell wine of their own growth at the place where the same is made—and the person who claims the benefit of that exception must show himself to be clearly within its terms. To do this he must show that he is a vinter, that the wine sold is of his own growth, that the sales are made at the place where the wine is made. It is a rule of construction that the express mention of one thing is the exclusion of others, and when Congress provided that no special tax should be imposed upon "vinters who sell wine of their own growth at the place where it is made," it virtually refused the exemption to vinters who sell wine not of their own growth, and to those who sell wine of their own growth at any place other than where it is made. The provision concerning vinters is as old as the present internal-revenue system. (T. D.; May 4, 1878.)

**Tobacco peddler's bond.**

A tobacco manufacturer desiring to be informed if, having employed a man to peddle manufactured tobacco and cigars who had properly qualified as a peddler by giving the required bond and obtaining a special-tax stamp and peddler's certificate to legalize his business, and who afterwards, from sickness or other cause, is unable to travel and make sales, he can put another person in his place without his qualifying as a peddler, the Commissioner rules that as the bond must be given and the special tax paid by or for the person who travels and makes sales and deliveries of cigars and tobacco, and as the special tax stamp and the certificate of the collector must be issued to him and in his name, no other person can peddle tobacco and cigars, even temporarily, under his bond, special tax, and certificate. (T. D.; May 13, 1878.)

**Tax on distilled spirits.**

The United States circuit court for the northern district of Illinois, July 8, 1878, construing section 3248, Revised Statutes, *Holds* that the tax on distilled spirits becomes due as soon as the spirits are manufactured, and the subsequent destruction of the spirits by fire or otherwise does not release the distiller from his liability on the warehouse bond. (T. D.; July 22, 1878.)

**Peddling manufactured tobacco by a member of a firm.**

In response to the inquiry whether, where a firm takes out a special-tax stamp and qualifies as a tobacco peddler, either or any member of the firm can travel and make sales under said special-tax stamp and collector's certificate, it is ruled that such special-tax stamp and certificate may be issued to and in the name of a firm to peddle manufactured tobacco, and thereunder any member of the firm may travel and make sales and deliveries from their peddler's wagon. But no mere agent or employee of the firm can be allowed to do so. (T. D.; June 1, 1878.)

**Interest accrued on tax of distilled spirits—Joint resolution of 1878.**

Hereafter collectors will not issue tax-paid stamps for any distilled spirits where interest has accrued under the provisions of the third section of the joint resolution, approved March 28, 1878, until the said interest is paid. If the interest accrued upon the tax on distilled spirits heretofore withdrawn from warehouse has not been paid, the collector will make a demand therefor, and if the same is not paid before the time of forwarding the next monthly list, Form 23, the collector will report thereon the amount of such interest due for assessment. The amount found due will be assessed and will be collected as other assessments are collected. (T. D.; May 20, 1878.)

**Stand casks forbidden.**

The rulings of the Bureau of Internal Revenue have repeatedly forbidden the use of "stand casks," as such, on the ground that every package filled on the premises of a wholesale dealer must be marked and stamped in accordance with law when filled and must have all marks, stamps, and brands obliterated when emptied, and that it would be impracticable to carry out these requirements in the case of ornamental casks known and used as "stand casks." The rule has been to require dealers to sell from the original packages in which they purchase. (T. D.; October 19, 1877.)

**Accounting for leaf tobacco and other materials daily purchased.**

The attention of the manufacturers of cigars is called to section 3390, Revised Statutes, requiring that every person engaged in the manufacture of cigars shall enter daily in a book, the form of which shall be prescribed by the Commissioner of Internal Revenue, an accurate account of the leaf tobacco and other materials purchased by him, the quantity of leaf tobacco, cigars, stems, or cigar boxes, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture, and from such daily record he is required to furnish his collector for each and every month an accurate abstract or monthly report, verified by oath. (T. D.; August 27, 1878.)

**Entry of leaf tobacco at time of casing.**

This office is of the opinion that the entry of leaf tobacco consumed should be made at the time of casing; that as often as the manufacturer cases or wets down his leaf tobacco—whether it be daily, or once, twice, or thrice a week—he should, before wetting his tobacco, weigh the same and make entry in his Govenrment book of so much leaf "consumed in manufacture" in the column prepared for such entry. (T. D.; August 27, 1878.)

**Definition of dealer in liquors.**

As exprest in section 18, act of February 8, 1875, the law defines a dealer in liquors as a person who sells or offers for sale either foreign or domestic distilled spirits, wines, or malt liquors, and imposes a special tax of $25 or $100, according as he sells at retail or at wholesale. The fact that a rectifier, manufacturer, or dealer attaches labels to the bottles, flasks, phials, or other inclosures containing distilled spirits or wines, and holds such spirits and wines out and recommends them for popular sale and use as tonics, diuretics, appetizers, or as specifics and remedies for various diseases, does not relieve the dealer in such spirits and wines from the special tax, if they are sold under the name of brandy, wine, gin, or whisky, or are substantially and essentially in use and effect distilled spirits or wines. (T. D.; September 2, 1878.)

**Booth holder's taxes at agricultural fairs.**

It has been held that, where an association, renting and occupying premises or grounds, such as fair grounds, trotting parks, etc., employs persons to sell liquors or tobacco for the exclusive benefit of the association, at various points within the grounds or inclosure, but one special tax for the sale of liquors or tobacco, as the case may be, will be required of said association in respect of such sales. But a person who has obtained the privilege of carrying on for himself within the fair grounds a business upon which a special tax is imposed by law should be required to take out a special tax stamp for each distinct and special booth or stand, within the inclosure, at which he carries on such business. (T. D.; August 31, 1878.)

**Legacies and distributive shares.**

The fact that certain distributive shares, arising from the personal property of an estate, are represented by bonds of the United States does not constitute ground for holding such shares to be exempt from tax on legacies and distributive shares under the internal-revenue laws. (T. D.; May 21, 1878.)

**Distributive shares under amendatory act of 1866.**

Under the amendatory act of July 13, 1866, the tax on a legacy passing by will of any person dying on or after August 1, 1866, but prior to October 1, 1870, and the tax on distributive shares of the personal estates of such persons, passing under interstate laws, accrued at the time of the testator's death, but did not become due and payable until the legacy was payable, that is, until the beneficiary became entitled to the possession or enjoyment thereof, or to the beneficial interest in the profits accruing therefrom. Therefore, in all cases of legacies bequeathed by persons dying since August 1, 1866, and prior to October 1, 1870, or of distributive shares of the personal estate of persons dying intestate during that period possessed of personal property exceeding $1,000 in value, return for the assesment of the tax thereon can only be legally demanded when the legatees or distributees become entitled to the possession or enjoyment of their legacies or distributive shares. (T. D.; May 21, 1878.)

**Returns of legacies for taxation.**

For purposes of taxation shares in personal estates are to be returned by the executor, administrator, or trustee, in the district where the decedent had his legal residence at the time of his death. (T. D.; May 21, 1878.)

**Succession returns for taxation.**

All succession taxes must be paid in the collection district in which the real estate lies. Returns may, however, be made in the district in which the successor lives, and when real estate lies in another district the collector should transmit the return to the collector of such other district. In cases in which several heirs succeeded to an estate, which remains undivided, a single return, if this course be preferred and the cotenants consent, may be made by any successor in behalf of himself and the other heirs, which return should show the value of the interest of each at the time when they became entitled thereto. (T. D.; May 21, 1878.)

**Governmental right to sue for taxes unlimited.**

The expiration of the five years' lien of succession tax does not prevent the Government from suing for the tax. It has been decided by the Supreme Court in the case of the Dollar Savings Bank that the Government may bring an action for the recovery of taxes at any time, whether they have been assessed or not. If the collector finds it necessary, in order to obtain the facts respecting liability to legacy or succession taxes where the records are insufficient, he can exercise the authority vested in him by section 3173, Revised Statutes, and also, by section 3163, Revised Statutes, as amended by section 1 of the act of August 15, 1876, and may summon the executors, administrators, or other persons he may deem proper, to appear and testify under oath. (T. D.; May 21, 1878.)

**Spirits tax-paid in hands of wholesale liquor dealers and rectifiers.**

In carrying out instructions heretofore given concerning tax-paid spirits in the hands of wholesale liquor dealers and rectifiers October 1, 1878, collectors are requested to see that spirits in store are not reported more than once, so as to show a greater amount of spirits than is actually on hand. Persons and firms making report of spirits on hand should report all spirits shown by their records to be on hand wherever the same may be stored, and persons having in store spirits not belonging to them, but carried on other wholesale dealers' or rectifiers' books, should exclude such spirits from their reports. (T. D.; September 17, 1878.)

**Medicated liquors—Liability to special tax.**

Articles which are labeled and sold as medicated liquors, wine, gin, brandy, whisky, cordials, and bitters, and which are substantially wines or distilled spirits, or are used or sold as alcoholic beverages, even tho having stamps attached to the packages, such as the law requires to be attached to patent and proprietary medicines, can not be legally sold except under a special-tax stamp of a liquor dealer, and the maker, compounder, or manufacturer of such liquors and beverages is liable to pay special tax as a rectifier. (See section 3244, Revised Statutes.) (T. D.; September 20, 1878.)

**"Hostetter's" and "Plantation" Bitters—Special tax.**

After careful inquiry into the nature and use of "Hostetter's Stomach Bitters" and of "Drake's Plantation Bitters," it is held that, for special-tax purposes, they should be treated as distilled spirits or wines, and that the person who sells them or offers them for sale, either by the drink or by the unbroken package or bottle, should be required to pay special tax as a liquor dealer, and that persons who manufacture them are rectifiers and, as such, liable to special tax. The enforcement of this ruling is, for reasons of a practical nature satisfactory to the Government, postponed until January 1, 1879. (T. D.; October 2, 1878.)

**Condemnation of personal property on distillery premises.**

The United States district court for the eastern district of Wisconsin *Held*, in a case involving an information against certain property seized at the rectifying house of the South Side Redistilling Company July 2, 1874, that personal property situated upon distillery premises, and employed in the business of illicit distilling, is subject

**Condemnation of personal property on distillery premises**—Continued.

to forfeiture. Neither the owner of such property nor his mortgagee, tho innocent of any participation in the fraudulent use of such property, can assert a claim thereto paramount to the rights of the United States in proceedings for the condemnation of the same. (T. D.; October 7, 1878.)

**Cancellation of tax.**

In a suit brought to cancel a tax alleged to have accrued against a railroad corporation in 1864, under the act approved June 30, 1864, regulating the collection of internal revenue, the United States district court, southern district of New York, *Held*, That taxes accruing under the internal-revenue laws can be sued for only in the district where the defendant resides, or where the tax accrues. The act of 1866 and that of section 733, Revised Statutes, embodying it, is restrictive and not merely permissive. (T. D.; October 28, 1878.)

**Retailing cigars at place of manufacture illegal.**

It is held that under the internal-revenue laws the retailing of cigars at the place of manufacture forfeits the bond of the manufacturer and subjects the purchaser to the penalties of felony, as prescribed in the provisions of section 3387, Revised Statutes, as interpreted by the United States circuit court for the district of Maryland. (T. D.; October 28, 1878.)

**Liability of foreign distilled spirits to tax.**

Responding to the inquiry as to whether foreign distilled spirits, seized as smuggled and sold for violation of the customs laws, must be sold subject to the internal-revenue tax, it is *Held* by the Commissioner of Internal Revenue that foreign distilled spirits are not liable to the tax imposed under the internal-revenue laws when forfeited to the Government under the provisions of the customs laws. Section 3334, Revised Statutes, provides that "all distilled spirits forfeited to the United States and sold by order of the court, or under process of distraint, shall be sold subject to tax." The question whether this applies to foreign distilled spirits as well as to domestic having been submitted to the Solicitor of the Treasury, he gave an opinion, dated June 5, 1877, holding that the provisions of section 3334 applied to domestic distilled spirits only, and the Department concurred in that opinion. (T. D.; December 11, 1878.)

**Overproduction by a distillery.**

The portion of section 20, act of July 20, 1868, as amended by act of June 6, 1872, applicable to the case of overproduction by a distillery, is intended to secure the collection of the tax, and not to impose a penalty for overproduction. (T. D.; October, 1878.)

**Overproduction evidence of incorrect survey.**

In the case of Richard P. Stoll, etc., plaintiff in error, *v.* Robt. P. Pepper, in error to the circuit court of the United States for the district of Kentucky, involving the question whether, if a distiller uses material for distillation in excess of the estimated capacity of his distillery according to the survey made and returned under the provisions of the law, and in the regular course of his business pays the taxes upon his entire production, he can be again assessed upon the excess of material used, the court *Held*, That there is nowhere in the internal-revenue law an express prohibition of production in excess of the estimated capacity. The requirement of taxes to the extent of 80 per cent of the capacity was intended to guard against the danger of frauds, which might arise if underproduction were allowed, but as the entire product goes from the distillery to the warehouse, and is there taxed without any deduction, it would seem that if more than the estimated quantity were produced the Government could have no just cause of complaint. A continued overproduction would be evidence to the Commissioner of Internal Revenue of an incorrect survey, which might need revision, but if the distiller does not escape taxation the Government suffers no loss. (T. D.; October, 1878.)

**Powers of attorney—Reopening of rejected refunding claims.**

Every attorney proposing to prosecute a refunding claim to be adjudicated by the Bureau of Internal Revenue must present a power of attorney from the claimant authorizing him to prosecute it. No attorney will be allowed to examine papers on file in this office which refer to a refunding or other claim that has been rejected by a former Commissioner until he presents a power of attorney, such as described, and also an affidavit of the claimant, or of his legal representative, or some other credible person, stating that material facts since the rejection of the claim will be produced in support of an application for the reopening of the claim. (T. D.; January 2, 1879.)

**Assessments on account of excess.**

Under the statute as construed by the United States Supreme Court in Stoll et al. *v.* Pepper, the basis of computing the tax on distilled spirits in cases where grain or molasses is used in excess of the quantity allowed by the survey will thus be realized: (1) Upon the entire actual product of the grain used under the survey, but in no case on less than 80 per cent of the surveyed capacity; and (2), upon the entire actual product of the grain used in excess of the survey, but in no case less than 100 per cent of the statutory estimate of the producing capacity of the grain so used. This rule applies equally to molasses distilleries, gallons of molasses being substituted for bushels of grain. (T. D.; January 2, 1879.)

**Scope and sufficiency of an indictment for fraud.**

In the case of the United States *v.* William Staton, on a motion for a new trial under an indictment, Judge Hammond, of the United States circuit court for the western district of Tennessee, *Held*, That—

(1) Under an indictment for defrauding the Government of the tax on distilled spirits, and for engaging in the business of a distiller with the unlawful intent to defraud the Government of the tax on such spirits, the Government is not confined in its proof to a single transaction, but may include all acts which show criminality.

(2) It is sufficient in the indictment to allege the offense in the language of the statute where this so defines the act or acts constituting the offense as to give to the defendant information of the nature and cause of the accusation. (T. D.; January 13, 1879.)

**Authority to compromise cases.**

The authority conferred upon the Commissioner of Internal Revenue by section 3229, Revised Statutes, to compromise a case arising under the internal-revenue law does not permit the voluntary relinquishment of a part of a tax lawfully assessed upon and due from a solvent person or corporation. A compromise implies some mutuality of concession, some real doubt about the legality of the claim, or the ability to meet it. In only such a case may the Commissioner authorize a compromise according to a ruling of the Department of Justice made January 14, 1879. (T. D.; January 14, 1879.)

**Sale of cigar stamps to sheriff or constable.**

Collectors of internal revenue are authorized by sections 3395 and 3396 to sell cigar stamps to a sheriff or a constable with which to stamp cigars which he offers to sell and deliver to a purchaser at a judicial sale under process of a State court for the benefit of the creditors of a cigar manufacturer. The object and scope of the law is to obtain revenue; but in collecting revenue it is not the policy of the Government to interfere with the rights of citizens under State laws any further than such interference is necessary to preserve the rights of the United States. (T. D.; January 8, 1879.)

**Affixing stamps to sheriff's sales.**

It is held that all cigars, before being delivered to the purchaser, are required to have suitable stamps attached, showing that the tax has been paid thereon. A sheriff or a constable, acting under orders of a court, is required to sell cigars on which the tax has not been paid. Before he can give a legal title as against the United States he must purchase and affix the necessary stamps. (T. D.; January 8, 1879.)

**Liability of a successor in business to special tax.**

In view of the decision of the Supreme Court, January 27, 1879, in the case of the United States *v.* Adam Glab, the ruling of this office requiring special tax to be paid by the successor in business of a firm which dissolves before the expiration of the term for which such firm has paid the special tax is modified to this extent, viz: Where the person or persons succeeding to and carrying on the business for which the dissolved firm has paid special tax belonging to such firm, further special tax should not be exacted of such successor for carrying on the same business at the same place for the remainder of the period for which the stamp was issued to the old firm. Where, however, a person, a member of a firm, carries on the business after the firm's dissolution and associates with him a person who was not a member of the old firm, the new firm so constituted should be required to pay special tax and take out a new tax stamp even tho the name of the new firm should remain the same as the old. (T. D.; March 4, 1879.)

**Liability of obligors on bond.**

As *held* by Justice Strong, of the United States Supreme Court, October term, 1878, the destruction by fire of spirits in a bonded warehouse in charge of an internal-revenue storekeeper does not relieve the obligors on the bond from liability to pay the tax. (T. D.; March 17, 1879.)

**Surviving partner—Special tax on business.**

The United States Supreme Court, October term, 1878, in the case of the United States, in error, *v.* Adam Glab, *Held* substantially that the surviving partner of a firm whose business is subject to special tax is not prohibited from carrying on the business for the balance of the term for which the tax is paid where no change is made in the business that would open the door to fraud. (T. D.; March 17, 1879.)

**Retail liquor dealer's sale in parcels—Special tax.**

Responding to an inquiry from a collector, it is held that that part of section 4, act of March 1, 1879, to which reference is made is construed as meaning that a retail dealer in liquors can sell out his entire stock of liquors, amounting to 5 gallons in one parcel, without subjecting himself to special tax as a wholesale liquor dealer, or he can sell his entire stock of distilled spirits in one parcel, his entire stock of wines in another parcel, and his entire stock of malt liquors in another parcel without subjecting himself to such special tax; but the exemption accorded to him does not extend further than this. (T. D.; April 7, 1879.)

**Modification of instructions on special taxpayers' return.**

In view of the change made in the law by section 4, act of March 1, 1879, collectors are directed to eliminate from the instructions now in their hands that part which reads as follows, viz: "Nor can wholesale dealers in malt liquors sell distilled spirits or wines at retail at the same place without paying tax as wholesale liquor dealers and retail liquor dealers." Attention is also called to the two classes of rectifiers contemplated by the act of March 1, 1879, the first class (rectifying less than 500 barrels per year) being required to pay a special tax of $100, and the second class (rectifying 500 barrels or more) being required to pay $200 special tax. (T. D.; April 14, 1879.)

**United States refunding certificates—Bank capital.**

Replying to the collector of the fifth district, Iowa, the Commissioner rules that a bank is not entitled to deduct the amount of its capital invested in the United States refunding certificates, issued under the act of February 26, 1879, from the amount of its capital returned for taxation under section 3408, Revised Statutes of the United States. (T. D.; April 28, 1879.)

**Payment of moneys received by marshals.**

In pursuance of section 3215, Revised Statutes, United States marshals will pay over the gross amount of all moneys received by them under process of the court from whatever source arising under the internal-revenue laws into the registry of the United States courts from which the process issues immediately after collection, without any abatement or deduction of any description whatever, taking from the clerk of said court duplicate receipts therefor, one of which the marshal should retain, the other to be sent to this office, accompanied by a report of proceedings under final process. This ruling has been made necessary by the fact that United States marshals are frequently in the habit of themselves undertaking to distribute the moneys collected by them. (T. D.; April 15, 1879.)

**Exemption of apothecaries under section 3246, Revised Statutes.**

The last clause of section 3246, Revised Statutes, as amended by section 5, act of March 1, 1879, reads as follows, viz: "Nor shall any special tax be imposed upon apothecaries as to wines or spiritous liquors which they use exclusively in the preparation or making up of medicines." This exemption extends over the entire chapter of special taxes, so that an apothecary can neither be required to pay special tax as a liquor dealer for selling medicinal preparations, tho spiritous liquor or wine be a component part, nor be required to pay special tax as a rectifier for purifying, refining, or in any manner treating liquors for use in the preparation of his medicines. But the exemption relates only to medicinal preparations, and, therefore, an apothecary is not exempt from the liquor dealer's special tax if he sells unmixed distilled spirits (including pure alcohol) or wines, tho he sell them strictly as medicines and even upon a physician's certificate. (T. D.; April 21, 1879.)

**Leaf tobacco sales from original packages.**

A person who has paid special tax of $25 as a dealer in leaf tobacco, or has paid a special tax of $10 and otherwise qualified himself as a manufacturer of tobacco or cigars, is allowed, under the second proviso to paragraph 6, section 3244, Revised Statutes, as amended by the act of March 1, 1879, to sell a legally authorized manufacturer of cigars leaf tobacco in quantities less than original packages for use in his own manufactory exclusively. Said proviso does not authorize the sale at retail of leaf tobacco to purchasers promiscuously. Provisos to a law are required to be strictly construed. All persons and classes of persons not expressly included in the statute are excluded. (T. D.; April 26, 1879.)

**Spirits sold subject to tax.**

In the case of Hartman, plaintiff in error, *v.* Bean, collector of internal revenue, the Supreme Court of the United States, October term, 1878, *Held*, in substance, that the purchaser of spirits deposited in a bonded warehouse and sold subject to tax takes the property subject to the lien, not only of the tax levied pursuant to the report of the distiller, but to any additional tax that may be assessed by the Commissioner of Internal Revenue under the acts of Congress. (T. D.; May 12, 1879.)

**Distillation for each day—Product of a day.**

In reply to the inquiry whether the regulation which forbids the mixing of the product of one day's distillation with the product of another day is to be enforced at distilleries where leaching and redistilling form a part of the process, it is held that in

**Distillation for each day—Product of a day**—Continued.

this class of distilleries, as in all others, the product of any day's distillation is represented by the finished goods which are run into the receiving cisterns during that day. This may or may not include the product of the beer falling due and distilled on that day. The spirits run into the receiving cisterns each day should be kept separate from and not be intermingled with the spirits run into the cisterns on any other day. (T. D.; April 8, 1879.)

**Excess assessable for taxation.**

Whenever an examination of any distiller's original package shows an excess of spirits of 1 proof gallon or upward over and above the quantity which, according to the marks, stamps, and brands on such packages might be lawfully contained therein, it should be detained for investigation and a careful gage made by at least two competent gagers, where practicable, and, if the excess as found by both of them should amount to 1 proof gallon or upward in any package, the taxable excess should be estimated by the collector and reported for assessment against the distiller. (T. D.; May 7, 1879.)

**Moneys received in internal-revenue cases.**

It appearing from the quarterly reports made to the Commissioner of Internal Revenue under the act of March 1, 1879, that there exists a variety practise in the disposition of the moneys paid into court as received in suits brought under the internal-revenue laws, clerks of United States courts are instructed, in accordance with the provisions of section 3216, Revised Statutes, that all moneys recovered or received in such cases for taxes, costs, witness fees, forfeitures, and penalties should be paid over to collectors of internal revenue for the districts in which the cases arise. (T. D.; May 1, 1879.)

**Percentage payable to district attorneys.**

If a United States district attorney shall elect to take 2 per cent of moneys collected or realized in any suit under the internal-revenue laws in lieu of costs and fees in said suit, as provided in section 825, Revised Statutes, then this 2 per cent may, in accordance with the opinion of the Department of Justice, be paid by the court to the district attorney. With this exception, it is held that the fees of district attorneys, clerks, marshals, and commissioners in suits under the internal-revenue laws are payable only on settling their accounts at the Treasury as provided by section 856, Revised Statutes. (T. D.; May 1, 1879.)

**Distilleries seized for forfeiture.**

Hereafter every collector in whose district any illicit distilleries are seized will, on or before the 10th of the following month, send to the Commissioner of Internal Revenue the number of illicit distilleries seized, the number of stills destroyed or removed for forfeiture, the number of persons known to be arrested, and, also, the casualties to officers or employees which have occurred in connection with the discovery and seizure of illicit stills during the preceding month. This report is to be rendered in addition to, and not substituted for, such special reports as each case may seem to require. (T. D.; May 22, 1879.)

**Judgments against revenue officers.**

The Supreme Court of the United States, October term, 1878, *Held*, substantially, that by an act of Congress relative to suits against revenue officers, it is provided that where a recovery is had in such suit, and the court shall certify that there was probable cause for the act done by the officer, no execution shall issue against the officer, but the amount so recovered shall, upon final judgment, be paid by proper appropriation from the Treasury. When such certificate is given, the claim of the plaintiff is practically converted into a claim against the Government, but not until then; and, hence, no interest can be allowed on such judgment. (T. D.; June 30, 1879.)

**Seizure of real property—Sale of real property.**

(1) Unless required by statute, a levy, or seizure of real property for the purpose of sale to satisfy a debt or tax, may be made without going upon the premises, by making a memorandum upon the warrant of the description of the premises for th purpose of a levy and sale.

(2) A deputy collector of internal revenue to whom a warrant was directed for the collection of a delinquent tax due from *Joseph* H., levied upon 330 acres of land belonging to *Joseph* H. when said tax became due by entering upon said warrant a correct description of the premises by metes and bounds, but, at the same time, incorrectly stated therein that they were in the occupation of *John* H., who lived over 2 miles distant from the premises, and afterwards offered the premises upon which said *John* H. lived, for sale, upon the erroneous assumption that they were the premises of *Joseph* H. upon which he had lived, and, there being no bidders, declared the same purchased by the United States for the amount of tax, interest thereon, and charges.

Upon consideration of the facts, the United States circuit court for the district of Oregon, June 5, 1879, *Held*, substantially, that there was no sale of the premises levied upon as the property of *Joseph* H., and that the United States took nothing by the subsequent conveyance of it from the collector of internal revenue. (T. D.; June 30, 1879.)

**Redemption or allowance of revenue stamps.**

The First Controller of the Treasury has decided that in all claims arising under section 3426, Revised Statutes, evidence must be furnished as to the date on which the stamps on which an allowance is asked were purchased from the Government, or from a Government agent for the sale of stamps, and, if it shall appear that the same were not purchased within three years from the date of their presentation to the Commissioner of Internal Revenue, the claim can not be allowed. It is also to be observed that the Bureau of Internal Revenue is prohibited by the terms of the law from making any allowance from and after June 30, 1879, for documentary stamps, except those bearing the denomination of 2 cents. (T. D.; July 1, 1879.)

**Sureties on distillers' bonds.**

The directions to collectors contained in Regulations and Instructions Concerning the Tax on Distilled Spirits, requiring sureties on all distillers' bonds to be double the amount of the penal sum of the bond, are not to be regarded as mandatory. Collectors will, in the exercise of the discretion given them by section 3260, Revised Statutes, as to the approval of distillers' bonds, in addition to a careful and searching investigation of the sufficiency of all sureties offered, require the sureties to justify in such amounts as are safe, prudent, and adequate to save the Government harmless from loss. (T. D.; July 14, 1879.)

**Insertion of name of other than that of party paying tax.**

In relation to the insertion, in tax-paid stamps affixt to packages of spirits, of the names of customers instead of the names of the distillers, it is held that the name of the distiller must in all cases be entered in the stamp as the name of the party paying the tax. Whenever the attention of the Commissioner of Internal Revenue has been called to this matter, the ruling has been uniformly in accordance with this view. (T. D.; August 8, 1879.)

**Claims for abatement or refunding of taxes.**

It is directed that, after September 1, 1879, all claims for the abatement or refunding of taxes should contain at their close the following words, viz: "The above statements, together with those heretofore made in writing and filed as evidence by the claimant, embrace all the facts known to the claimant on which this claim is based." Collectors and deputy collectors, assisting in the preparation of new claims, or in the completion of claims returned for additional evidence, should take care that the foregoing statement is supplied or its omission explained. (T. D.; September 1, 1879.)

**Branding the name of spirits upon casks at distilleries.**

It is held that the branding of the particular name of the spirits as known to the trade into the heads of casks filled at distilleries may be performed by cutting with a die or some sharp instrument. Gagers are accordingly instructed that hereafter the name may be cut into the head of the cask with a die or other suitable instrument, or burned in with a hot iron, the letters in either case to be not less than one inch in length. The branding or burning may be done either before or after the cask is filled. Any portion of existing regulations inconsistent herewith is hereby revoked. (T. D.; September 22, 1879.)

**Leaf tobacco sales in broken packages.**

In the proviso added to the last clause of paragraph 6, section 3244, Revised Statutes, by the amendatory act of March 1, 1879, it was not intended to authorize tobacco or cigar manufacturers to do business as retail leaf dealers without paying any special tax therefor. Without changing the law requiring leaf dealers to sell only in original hogsheads, cases, or bales, it made it lawful in certain cases and under certain conditions for a cigar manufacturer to purchase leaf tobacco in less quantities than the original package. (T. D.; October 13, 1879.)

**Conspiracy to defraud the revenue—Statutory limitation.**

In the case of the United States *v.* Hirman Hirsch et al., wherein the defendants were prosecuted on an indictment for conspiracy with four different counts, to which they pleaded the statute of limitations, the Supreme Court *Held* substantially that—

(1) A conspiracy to defraud the Government, tho it may be directed to the revenue as its object, is punishable by the general law against all conspiracies, and can hardly be said, in any just sense, to arise under the revenue laws.

(2) The statute of limitations of three years is good as a bar to prosecution for a conspiracy to defraud the revenue, and is not a bar to a crime arising directly under the revenue laws. (T. D.; December 1, 1879.)

**Allowance for leakage on spirits withdrawn for transportation.**

It is held that spirits withdrawn by manufacturers from distillery warehouses for transportation to manufacturing warehouses do not come within the provisions of the act approved December 20, 1879, and that no allowance can be made for losses by leakage or casualty occurring during transportation of such goods. (T. D.; January 3, 1880.)

**Sureties' liability on official bond.**

Where the official bond of a public officer is conditioned that "he shall faithfully perform his duties" as such officer, the sureties thereon are liable for the faithful performance of all duties imposed upon the officer, whether by laws enacted previous or subsequent to the execution of the bond which properly belong to and come within the scope of the particular office. Thus, it was held by the United States circuit court for the district of Massachusetts, in an action prosecuted against the sureties on an official bond, that where, after the execution of the bond of a collector of internal revenue as disbursing agent, a statute provided for the appointment of internal-revenue storekeepers and imposed on internal revenue in the several districts, as disbursing agents, the duty of paying such storekeepers from funds advanced by the Government for the purpose, such duty is within the scope of the office, and the sureties on the bond are liable for any failure of duty of the collector in respect thereto. (T. D.; January 26, 1880.)

**Special-tax payer's returns under oath.**

In response to the inquiry whether it is imperative that taxpayers shall swear to an application where it embraces the entire special-tax year, it is held that if a special-tax payer who is liable for a full year makes a return without verifying the same by oath or affirmation and pays the tax during the calendar month in which such tax accrues, prosecution for carrying prior to payment of the special tax will not

**Special-tax payer's returns under oath**—Continued.

be ordered by the Bureau of Internal Revenue. Nor will the penalty of 50 per cent be assessed where the return, whether sworn to or not, is received within the calendar month in which the tax accrues. All returns for a fractional part of the year should be made under oath or affirmation. (T. D.; March 13, 1880.)

**Removal of criminal prosecution from a State to a Federal court.**

The Supreme Court of the United States, October term, 1879, considering the question whether an indictment of a revenue officer for murder, found in a State court, is removable to the circuit court of the United States, under section 643, Revised Statutes, *Held*, substantially, that—

(1) Section 643, of the Revised Statutes, which declares that "when any civil suit or criminal prosecution is commenced in any court of a State against any officer appointed under or acting by authority of any revenue law of the United States now or hereafter enacted, or against any person acting under or by authority of any such officer, on account of any act done under color of his office, or of any such law, or on account of any right, title, or authority claimed by such officer or other person under any such law * * * the said suit or prosecution may, at any time before the trial or final hearing thereof, be removed for trial into the circuit court next to be holden in the district where the same is pending, upon the petition of such defendant to said circuit court," etc., is not in conflict with the Federal Constitution.

(2) D. was indicted for murder in a State court of Tennessee. In his petition, duly verified, for the removal of the prosecution to the Federal court, he stated that, altho indicted for murder, no murder was committed; that the killing was done in the petitioner's own necessary self-defense, to save his own life; that at the time when the alleged act for which he was indicted was committed he was and still is an officer of the United States, to wit, a deputy collector of internal revenue; that the act for which he was indicted was performed in his own necessary self-defense while engaged in the discharge of his duties as deputy collector, and while acting by and under the authority of the internal-revenue laws of the United States; that what he did was done under and by right of his said office; that it was his duty to seize illicit distilleries and the apparatus that is used for the illicit and unlawful distillation of spirits; and that while so attempting to enforce the revenue laws as deputy collector, aforesaid, he was assaulted and fired upon by a number of armed men, and that, in defense of his life, he returned the fire, which is the killing mentioned in the indictment. *Held*, that the petition was in conformity with the statute and, upon being filed, the prosecution was removed to the circuit court of the United States for that district. (T. D.; March 22, 1880.)

**Spirits forfeited computed only on proof gallons.**

Hereafter, in the case of forfeited spirits proceeded against under section 3460, Revised Statutes, which, when offered for sale, will not, by reason of being below proof or of inferior quality, bring a price equal to the tax thereon computed only upon the proof gallons thereof, collectors will apply to this office for authority, under the last provision of section 3450, Revised Statutes, to destroy the same. (T. D.; March 23, 1880.)

**Export bonds—Acknowledgments and approvals.**

Hereafter, the principals and sureties on all bonds covering tobacco, snuff, and cigars intended for exportation must make due acknowledgment of the execution of the same before the collector of internal revenue, or some other officer having a seal and empowered to take acknowledgment of deeds, whose certificate of such acknowledgment, setting forth that the parties named are known to such officer to be the individuals described in and who executed the bond, and that they severally acknowledged that they executed the same, shall be appended to the bond. The approval of the collector must also be indorsed on such bond. (T. D.; April 5, 1880.)

**Allowance for a refund of taxes by Commissioner.**

In the case of the First National Bank of Greencastle *v.* The United States, being an action of contract upon an allowance in writing made and certified by the Commissioner of Internal Revenue for the refund and payment back of a tax illegally assessed, the United States Court of Claims ruled that when the Commissioner makes and certifies to an allowance for a refund of taxes under section 3220, Revised Statutes, the liability of the United States becomes fixt and established, and the allowance can not be set aside by the accounting officer nor by the court except for fraud, mistake, or irregularity. An action will lie in the Court of Claims on such an allowance as upon contract or statute of liability. (T. D.; April 19, 1880.)

**"Leach tub" defined.**

The Bureau of Internal Revenue defines the term "leach tub," as employed in the third paragraph of section 3244, Revised Statutes, as being a vessel containing some material thru which spirits are percolated or filtered in such a manner as to change their character. This change may purify the spirits by the removal of some extraneous matter, or it may compound them by the infusion of a portion of the material thru which the spirits pass; and while tanks and other large vessels are mostly used as leach tubs, a barrel or other small vessel may become, in law, a leach tub, if actually put to that use. (T. D.; April 21, 1880.)

**Peddler's license—Sale of liquors under the law.**

The special-tax stamp of a brewer does not authorize him to sell his beer in bottles; it covers only his sales of the original stamped packages of his beer, the original kegs or barrels of beer to which the tax stamps are affixt. Brewers, as well as all other persons, are required to pay special tax as malt-liquor dealers for selling bottled. The rule of this office with regard to sending out bottled beer in wagons is this, viz: That where a person who has paid the special taxes of a wholesale and retail dealer in malt liquors sends out a wagon load of beer to supply his regular customers from the place of business stated in his special-tax stamps the driver may deliver from the wagon to such regular customers any quantity that they may happen to require when he calls upon them. But if the driver should go from place to place selling and delivering bottled beer to any purchasers he might find on his route he would be selling the beer in the manner of a peddler, which is not authorized by the internal revenue laws. (T. D.; May 24, 1880.)

**Pay of deputy collectors.**

Prior to the passage of the act of March 1, 1879, chapter 125, section 2, the United States were not liable to the deputy collectors of internal revenue for the payment of their services. Such deputies were held to be employees of the collector by whom they were appointed and by whom they were compensated. By the passage of the act of March 1, 1879, the law and the practise of the Treasury Department were changed, placing the liability for the pay of deputy collectors on a different basis. (T. D.; June 1, 1880.)

**Leaf tobacco sales—Special tax under act of 1880.**

Under the act of Congress approved June 16, 1880, it is held that dealers in leaf tobacco who purchase or receive tobacco otherwise than in the hand, or who purchase or receive tobacco from persons other than farmers or planters who produced it themselves, or who received it as rent from their tenants who produced it—that is to say, all persons who purchase or receive leaf tobacco which has past from the possession of the producer or his landlord into the possession of other parties and sell, or offer it for sale, or consign it for sale on commission, are liable to pay the special tax of $25, irrespective of the amount of their sales or shipments in any one special-tax year. (T. D.; July 7, 1880.)

**Penal sum of grape-brandy bonds—Special bonded warehouses.**

Hereafter the penal sum of warehousing bonds, given for the storage of grape brandy in special bonded warehouses, may be, as in cases of distilled spirits deposited in distillery warehouses, any sum not less than the amount of the tax. As to transportation bonds, however, where the brandy is not in the custody of United States officers, the penal sum should be, as heretofore, double the amount of tax. (T. D.; July 14, 1880.)

**Deputy collectors not officers.**

In deciding the claim of William Herndon, a deputy collector in the eighth revenue district of Kentucky, for compensation for services rendered in that capacity, the United States Court of Claims substantially *Held*—

(1) A deputy collector of internal revenue is not an officer within the meaning of sections 1763, 1764, and 1765 of the Revised Statutes. He is an employee of the collector.

(2) Such deputy, when designated by the Commissioner of Internal Revenue to assist a collector in making surveys of distilleries, is not an officer. (T. D.; October 4, 1880.)

**Brandy peaches—No special tax.**

No special tax is required to be paid under the internal-revenue laws of the United States for the sale of brandy peaches in the manner usual with the ligitimate trade, that is, in bottles or other packages containing no greater quantity of liquor than is necessary for the preservation of the fruit. (T. D.; October 8, 1880.)

**Weights of leaf tobacco.**

The process of resweating is not a process of manufacture. Any addition to the weight of the leaf by the resweating process becomes part and parcel of the leaf. * * * All tobacco reported by cigar manufacturers is required by the regulations to be the actual weight of the leaf, and is assumed to be tobacco in its normal condition unless the tobacco is resweated and evidence of that fact is furnished by the collector at the time it is reported. Any other mode of making entries by leaf dealers and manufacturers than that of the actual weight of the leaf tobacco at the time of purchase and at the time of sale would leave this officer in uncertainty as to the basis on which to compute the production from the quantity of leaf tobacco reported as used by the manufacturer. (T. D.; December 15, 1880.)

**Corrections of volume of spirits.**

The method prescribed by the Bureau of Internal Revenue in pursuance of law, for ascertaining the true volume of spirits is not only believed to be scientifically and practically correct but as an essential element of the method of gaging now in use and indispensable for the due execution of the law. The provisions of section 3249, Revised Statutes, not only render it obligatory to make the proper correction for temperature in the official of the volume of spirits, but make it incumbent on the Commissioner to secure correctness and uniformity in prescribing rules governing the inspection, weighing, marking, and gaging of spirits. This uniformity would not be secured if one rule should be applied for gaging at distilleries and another for gaging at rectifying establishments. (T. D.; December 18, 1880.)

**Abatement of taxes in litigation.**

After a collector has exhausted all remedies in his power to collect a tax and has placed the bond of the taxpayer in the hands of the United States attorney for suit, and suit has actually been commenced, there would seem to be no further necessity for carrying the amount in his tax account as outstanding. It is the duty of the collector to use the same diligence to collect a tax after it has been abated as uncollectible as before abatement. Such an abatement does not impair the claim of the Government against the taxpayer nor against the sureties upon his bond. The claim should be supported by a certificate of the United States attorney stating the date of the commencement of the suit. (T. D.; January 5, 1881.)

**Refund of internal-revenue tax.**

In deciding the questions arising upon the claim of the Real Estate Savings Bank of Pittsburgh, July 9, 1880, for a refund of taxes alleged to have been unlawfully collected on deposits, Controller Lawrence, of the Treasury Department, *Held* that—

(1) A claim for a refund of internal-revenue tax, under the Revised Statutes, section 3220, must be presented to the Commissioner of Internal Revenue within two years next after payment thereof or it can not be lawfully allowed.

(2) It is not sufficient that such a claim be presented to a collector of internal revenue within two years.

(3) The allowance of such a claim by the Commissioner of Internal Revenue is not conclusive on the question whether it was presented to him within two years.

(4) The First Controller of the Treasury is charged with the duty of determining whether the payment is "warranted by law," and he is authorized to decide every fact affecting the jurisdiction of the Commissioner which may be necessary to ascertain if the claim can be lawfully paid. (T. D.; December 6, 1880.)

**Liability of delinquent special-tax payers.**

It is the duty of every person engaged in any trade or business upon which a special tax is imposed by law to pay that tax before commencing the business and for engaging in such business before he has paid the tax he becomes liable to indictment, fines, penalties, and imprisonment, and in some cases to forfeitures. The penalty of 50 per cent is imposed for failure to register, that is, to make the return usually made within the time required by law, and according to the exact letter of section 3173, Revised Statutes, as amended, this time is on or before the 30th day of April in each year, or before engaging in the business for which the tax is imposed. (T. D.; January 20, 1881.)

**Suspension of assessment of 50 per cent penalty.**

Under a liberal construction of the statute, the penalty of 50 per cent is not assessed where the return is made or the tax is paid within the calendar month in which the liability first arose. Neither such return nor payment shields the taxpayer from liability to indictment if he does business before he actually pays the tax, tho such prosecutions are not deemed advisable if the tax is paid within the calendar month and the delay was without fraudulent intent. (T. D.; January 20, 1881.)

**Distinction between instructions and regulations.**

In the case of W. J. Landrum *v.* The United States, the United States Court of Claims, December term, 1880, ruled, substantially, as follows:

(1) Deputy collectors and distillery surveyors are not officers "in any branch of the public service," within the meaning of section 1765, Revised Statutes, but are persons in public employment.

(2) An inherent distinction exists between "instructions" and "regulations," which is recognized by the statutes. An "instruction" is a direction to govern the conduct of a particular officer to whom it is addressed. A "regulation" affects a class or classes of officers.

(3) An additional allowance made to a collector of internal revenue under the provisions of section 3145, Revised Statutes, for the compensation of a deputy is an "instruction" and not a "regulation," and, therefore, the pay of such deputy is not "fixt by regulations."

(4) A special letter addrest to a distillery surveyor fixing his compensation, tho at the uniform rate allowed to others in like employment, is also an instruction and not a regulation. Therefore, section 1765 does not prohibit the employment of a deputy collector to assist the collector in the survey of distilleries or the payment to him of compensation for his services. (T. D.; March 14, 1881.)

**Construction of section 1765, R. S., and act of 1874.**

The United States Court of Claims, December term, 1881, with reference to the claim of Richard H. Warden *v.* The United States, *Held* substantially the following propositions, viz:

(1) An internal-revenue gager is a public officer within the meaning of the Revised Statutes, and, as such, is affected by the provisions of section 1765 and by the act of June 20, 1874

(2) A person holding the office of gager during a given period, tho no work be done or compensation be earned in that capacity, is nevertheless disabled from receiving pay from the United States in any other capacity or for any other service.

(3) However, money so paid to a public officer in good faith under a mistaken construction of law, and for services actually rendered at an honest valuation can not be recovered back.

(4) A statute providing that "every supervisor shall be entitled to receive the expenses necessarily incurred by him and allowed and certified by the Commissioner of Internal Revenue," contemplates two acts by the Commissioner, viz: (1) The "allowance" which is absolutely essential to give the claim a legal standing in the court or elsewhere; and (2) the "certificate" which may be necessary to the settlement of the account by the Treasury officer. But in the absence of such certificate the court can receive other evidence to show that the expenses were incurred, and may review the merits of the reasons given for refusing to pay them. (T. D.; March 28, 1881.)

**Leaf-tobacco dealers.**

It is held that the eighth subdivision of section 3244, Revised Statutes, approved June 16, 1880, was not intended to confer any special benefit upon persons who were already engaged in the business of handling leaf tobacco, or to relieve them from any portion of the special tax which they were required to pay. It was intended to enable persons who grow small patches of tobacco, primarily for their own use, to dispose of any surplus so grown by exchanging or selling it to country storekeepers who would be authorized to buy it in the hand of those persons, and to sell or dispose of it to leaf dealers, manufacturers of tobacco, snuff and cigars to exporters, provided the annual sales did not exceed 25,000 pounds, by the payment of a special tax of only $5. (T. D.; March 16, 1881.)

**Authority of Commissioner as to special tax.**

The act of June 16, 1880, authorizes and directs the Commissioner of Internal Revenue, in case any person has paid a special tax of $5 and shall have been found to have handled more than 25,000 pounds of leaf tobacco in any one special-tax year, to assess such person for the difference between the special tax paid by him and the special tax of $25, imposed on dealers in leaf tobacco. (T. D.; March 16, 1881.)

**Taxes imposed on persons in certain trades.**

Under the internal-revenue law and for revenue purposes, special taxes are imposed by the General Government on persons engaged in certain trades or business, and, also, specific taxes are imposed upon certain manufactured products. Included in the first class are persons engaged in the business of selling distilled spirits, wines, malt liquors, etc., and in the second class are included distilled spirits, malt liquors, and medicinal bitters, and various compounds composed in part of distilled spirits. Under the internal revenue law the sale of compounds which have been decided by the Bureau of Internal Revenue to be medicinal and subject to stamp tax tare allowed to be sold without the payment of a special tax as a liquor dealer. (T. D.; March 26, 1881.)

**Prosecution of offenses.**

Section 3164, Revised Statutes, makes it the duty of the collector to report to the district attorney the facts in all cases where any fine, penalty, or forfeiture is incurred

**Prosecution of offenses**—Continued.

for a violation of the internal-revenue law, whether the offense be technical and unintentional or otherwise, but in so doing, if he thinks prosecution not advisable, he should so state, and recommend that no prosecution be instituted. (T. D. December 12, 1881.)

**Commissioner's authority to refund taxes.**

In the case of J. Barnett & Co. *v.* The United States, involving an allowance for refund and payment back by the Commissioner of Internal Revenue of certain taxes under the statute, the United States Court of Claims substantially *Held*—

(1) The power conferred upon the Commissioner of Internal Revenue by section 6, act of March 1, 1879, to refund taxes assessed against a distiller on account of a deficiency in production caused by unavoidable accident is substantially the same as the power conferred by section 3220, Revised Statutes, over a different subject-matter.

(2) An allowance by the Commissioner under section 6, act of March 1, 1879, which is approved by the Secretary of the Treasury, is an adjudication in favor of the claimant upon which the liability of the Government is complete until in some appropriate form it is impeached.

(3) That the accounting officers of the Treasury refuse to certify for payment the Commissioner's allowance is wholly immaterial. Congress has intrusted the power of making such allowance to the judgment and discretion of the Commissioner, subject to regulations prescribed by the Secretary. (T. D.; June 6, 1881.)

**Judgment for internal-revenue taxes.**

The Controller of the Treasury, in ruling on Seat's case, sustained the following legal propositions, viz:

(1) When a judgment is rendered by a court of competent jurisdiction in favor of the United States for a given sum of money, no officer of the Government can lawfully surrender the rights thereby invested unless authorized to do so by statute.

(2) A final judgment in favor of the United States on a distiller's bond, executed under section 3260, Revised Statutes, can not, with the consent of the Commissioner of Internal Revenue, and of the attorney of record of the United States in the action in which the judgment was taken, be released, or reduced in amount.

(3) After the term at which such final judgment is rendered in a district court of the United States, the court can not, with the consent of any officer, set aside or annul it when there has been no motion filed to set it aside at the judgment term.

(4) A judgment debtor, who makes a voluntary payment of the judgment, can not recover from the United States the money so paid, unless authorized by Congress.

(5) When money has been paid on the judgment it can not be refunded under sections 3320 and 3689 as "taxes illegally collected."

(6) The judgment is conclusive evidence that the tax was legally collected. No executive officer can collaterally impeach, or otherwise deny, the validity of the judgment, or the legality of the tax to enforce payment of which it has been rendered. (T. D.; June 20, 1881.)

**Payment of tax on forfeited spirits.**

Under the law, as understood by the Bureau of Internal Revenue, the tax collected upon forfeited spirits at the time they are sold is another and different tax from that to which the distiller becomes liable as soon as the spirits come into existence (Secs. 3248, 3334, Revised Statutes.) The tax should be collected. The payment of one of these taxes is no defense against the other. After the forfeiture the spirits are the property of the United States, and the Government has the right to impose such conditions upon the sale of its property as it sees fit. (T. D.; August 26, 1881.)

**Bank capital tax under revenue law.**

The tax imposed by the second subdivision of section 3408, Revised Statutes, is a tax not upon the property which represents the capital of a bank, but upon the franchise—the privilege which the bank enjoys of carrying on the business of banking. In the case of a chartered bank, or of a bank established under some general banking law, this tax is measured by the authorized or chartered capital. If the authorized capital is variable within certain limits at the option of the bank, the amount paid in, or secured to be paid in, if within those limits, is the amount by which the tax is to be measured. (T. D.; May 3, 1881.)

**Violations of law through ignorance.**

Where a violation of the internal-revenue laws arises from ignorance, or where the facts show that there was no wilful or intentional attempt to violate the law, and a caution against future delinquency is deemed sufficient, the collector should so report to the United States attorney, and state in his book, kept for such records, the nature of his report. There may be some cases, also, in which it would be harsh to enforce the full penalties of the law, and in which a small penalty sufficient to serve both as a punishment and a warning would satisfy the demands of justice and protect the revenue. (T. D.; December 12, 1881.)

**Compromise cases under the revenue laws.**

The provision of law, section 3229, Revised Statutes, relative to compromises in revenue cases, furnishes a course of procedure which is often adopted to give relief to parties. It is not in any case desirable to give parties to understand that they will be prosecuted unless they make an offer of compromise. No solicitation of an offer should be made, no delinquent should be induced by threats to invoke the power of the Commissioner to compromise, and no assurance should be given of the probable action of the Commissioner if an offer be made, but there may be some cases where the individual is ignorant of such a provision of law and would be glad to make his appeal for clemency in the manner provided, upon being informed of the proper mode. (T. D.; December 12, 1881.)

**Assessment illegal not a lien.**

Where a policy of insurance upon a mill and distillery provided that all liens should be disclosed in the application, on penalty of forfeiture, and that any change in the possession, by virtue of legal process, should have a like effect, it was held that an illegal assessment by the internal revenue commissioner was not a lien within the policy, and that a seizure thereunder, being illegal, was not contemplated by the policy. This doctrine was announced by the United States circuit court for the southern district of Ohio, February, 1881, in an action on a policy of fire insurance upon a mill and distillery. (T. D.; March 6, 1882.)

**Reimbursement of revenue collector.**

In a decision made May 18, 1881, by the First Controller of the Treasury, in the matter of reimbursing an internal-revenue collector for the amount of judgment recovered against him in a State court, it was *Held* that—

(1) It is the duty of the attorney of the United States to appear in behalf of collectors and other revenue officers in all suits pending in his district, both in State courts and in courts of the United States, when such attorney has knowledge or notice of such suits.

(2) A revenue officer against whom judgment has been rendered in a State court for an official act is not entitled to be reimbursed by the United States for money paid on such judgment, unless the proper district attorney was duly notified, or had knowledge of the pendency of the suit. (T. D.; April 17, 1882.)

**Refunding internal-revenue tax.**

In the case of The United States, appellants, *v.* The Real Estate Savings Bank of Pittsburgh, October term, 1881, the United States Supreme Court, Chief Justice Waite delivering the opinion, *Held*, substantially, that—

(1) The allowance of a claim for refund of an internal-revenue tax by the Commissioner of Internal Revenue raises an implied promise to pay and may be used as the basis of an action against the United States in the Court of Claims. It is prima facie evidence of the amount due, and the burden of showing fraud or mistake is upon the Government.

(2) As the Commissioner is not a disbursing officer, his payments under section 3220, Revised Statutes, must be made thru the accounting officers of the Treasury Department; but it is no defense to an action upon the Commissioner's allowance that, in the subsequent progress of the claim, some other officer declined to do what the law required of him before actual payment could be obtained.

(3) The Commissioner's allowance in this class of cases is not the simple passing of a claim by an ordinary accounting officer, and in an action thereon the fact of fraud or mistake, if alleged, must be proved by competent evidence, as any other fact.

(4) The presentation of a claim for refund to the proper collector of internal revenue for the purpose of transmission to the Commissioner, as required by regulation, is, in legal effect, a presentation to the Commissioner. (T. D.; March 20, 1882.)

**Compensation of revenue informers.**

In the claim of Franklin Green *v.* The United States, the United States Court of Claims ruled substantially as follows:

(1) Under the internal-revenue act approved June 6, 1872, and the circular of the Commissioner of Internal Revenue offering rewards for information leading to the detection and punishment of persons guilty of violating the internal-revenue laws, an informer is entitled to only such percentage on the net amount of money recovered as the Commissioner shall allow and the Secretary of the Treasury shall approve.

(2) The Commissioner of Internal Revenue could not without the Secretary's approval bind the Government to pay a certain percentage.

(3) An informer who receives the amount of reward allowed by the Commissioner of Internal Revenue and approved by the Secretary, without making objection or or claim for more, is estopped from further recovery. (T. D.; June 2, 1882.)

**Compensation of collectors—Retroactive allowances.**

In the matter of retroactive compensation to collectors of internal revenue involving the legality of an allowance, the Comptroller of the Treasury, December 30, 1881, ruled substantially as follows, viz:

(1) The payment of an additional allowance to a collector of internal revenue after his salary has been lawfully fixed and after his services have been rendered is "additional pay" within the meaning of section 1765, Revised Statutes.

(2) The scale of compensation for collectors prescribed prospectively by the Secretary of the Treasury under the act of March 1, 1879, is a "regulation," whether applied to one officer or to many, and its effect as such is not changed by calling it an "instruction."

(3) By a well-settled rule of interpretation, the authority given to the Secretary of the Treasury by section 251, Revised Statutes, "to issue instructions and regulations" embraces two distinct powers, each having a separate purpose. In prescribing prospectively the amount of salary a regulation is made, and its effect as such can not be changed by calling it an instruction. The statute vests no discretionary authority to give two different effects to the same act.

(4) The act of March 1, 1879, gives authority to the Secretary of the Treasury, upon the recommendation of the Commissioner of Internal Revenue, after a salary has been prospectively prescribed and after services have been rendered, to make further allowances of salary to collectors within one year after the close of the fiscal year in which the services were rendered.

**Compensation of collectors—Retroactive allowances**—Continued.

(5) This act and section 1765 of the Revised Statutes are to be construed in pari materia in such a manner as to give each a purpose which does not interfere with that of the other.

(6) The act of March 1, 1879, within the limits therein prescribed, gives to the Secretary of the Treasury, upon the recommendations of the Commissioner of Internal Revenue, a discretionary authority in making allowances for salary of collectors which is conclusive on accounting officers as to the amount to be paid. (T. D.; September 18, 1882.)

**Appointments by Secretary of the Treasury for revenue investigations.**

In the matter of the appointment of clerks in the Treasury Department to investigate the offices of collectors of internal revenue, August 14, 1881, the First Comptroller of the Treasury decided that—

(1) The Secretary of the Treasury, as incident to the authortiy given him by law, would have, on general principles, authority to appoint a clerk in the Treasury Department, or other person, as special agent to investigate the office of a collector of internal revenue.

(2) This incidental authority can not arise if (1) specific provision is made by statute ample and plenary for this service, or (2) when its exercise is expressly prohibited.

(3) The exercise of the incidental authority mentioned is prohibited by section 3152 of the Revised Statutes, as amended by the act of March 1, 1879.

(4) The prohibition is so broad that neither the Secretary nor the Commissioner of of Internal Revenue can appoint any person to make such an investigation, except such agents as are authorized by section 3152, Revised Statutes, as amended by the act of March 1, 1879, or agents under section 3463 for detecting violations of the internal-revenue laws. (T. D.; February 5, 1883.)

**Collection of taxes on March, 1880, spirits.**

The Bureau of Internal Revenue has no authority to extend the time within which the tax on distilled spirits deposited in distillery warehouses must be paid. When the tax on spirits is not paid within the time fixt by the bond, the tax will be assessed and collection thereof be enforced, if necessary, by distraint. (T. D.; March 9, 1883.)

**Drawback on revenue tax on tobacco entered for export.**

In view of the provisions of section 4, act of March 3, 1883, for the allowance on tobacco, snuff, cigars, and cigarettes on hand May 1, 1883, of a drawback or rebate of the internal-revenue taxes thereon paid in excess of the taxes imposed by said act, the allowance of export drawback under the provisions of section 3386, Revised Statutes, on all tobacco, snuff, cigars, and cigarettes entered for export on and after the said 1st day of May, 1883, will be limited to the tax on articles of this class in force on that day. (T. D.; March 30, 1883.)

**Special taxes for special-tax year.**

When special taxes for the special-tax years are found to be due and uncollected, they will be assessed and collected as other taxes, and collectors will issue their receipt therefor. (T. D.; April 13, 1883.)

**Exportation in bond of spirits in new packages.**

It is ruled, under section 1, internal-revenue act approved June 9, 1874, as amended by section 10, act of March 1, 1879, that whenever a distiller of spirits in bond shall desire to change the packages containing the same, in order to export them, he should forward, thru the collector of the district in which the warehouse is located a written request to the Commissioner of Internal Revenue for permission to make the desired change, setting forth in his request the reasons which induce him to apply for permission to make the change. If the Commissioner is satisfied that the desired change of packages should be permitted, he will issue, thru the collector, a permit to the distiller to that effect. (T. D.; April 25, 1883.)

**Distilled spirits mixt with other materials.**

On and after July 1, 1883, as now, distilled spirits can be mixt with other materials and thereby manufactured into imitation or compound liquors for sale only by persons who have paid special tax as rectifiers, and such liquors can be sold only by persons who have paid special tax as liquor dealers. It will be immaterial as to what name or under what form or guise or with what recommendations such compounds are held out to the public, if they are known to be in composition, quality, use, and effect compound liquors or alcoholic beverages. (T. D.; June 1, 1883.)

**Surety on exportation and transportation bonds.**

Responding to an inquiry in reference to the acceptance of railroad companies and stockholders in incorporate distilling companies as sureties on transportation bonds covering spirits withdrawn from warehouse under the provisions of section 1, act of June 9, 1874, and consigned to a collector of customs for transportation, it is held that there is no objection to the acceptance of such securities, providing they are satisfactory to the collector and the company is by its charter permitted to enter into such a contract as surety. As regards the acceptance of stockholders in an incorporate company manufacturing spirits as sureties to these bonds and to warehousing bonds given by the company, the attention of collectors is called to an opinion of the Attorney-General as to the qualifications of such parties as sureties to the warehousing bonds given by the company. As the reasons set forth in said opinion, showing why such stockholders are disqualified as sole sureties to warehousing bonds, are equally applicable to transportation bonds, collectors are cautioned against accepting such sureties unless the bonds are signed by other satisfactory sureties. (T. D.; November 17, 1879.)

**Liability of alcoholic compounds to special tax.**

Collectors in their several districts will be called upon to decide the liability of persons to pay special tax who manufacture and sell compounds containing distilled spirits, wine, or other spirituous liquor. In general, only such cases as involve appeals from the decisions of collectors to the Commissioner of Internal Revenue will be considered by him. According to section 3243, Revised Statutes, the sale of alcoholic beverages in different States and cities is regulated and controlled by State and municipal laws, and for purposes of taxation these local laws provide that the State courts shall determine questions relating to the classification of compounds containing distilled spirits made and sold within their jurisdiction. Collectors of internal revenue will be materially aided by such decisions in determining questions of liability to special tax as rectifiers or liquor dealers; but these decisions will not be accepted as final in disputed cases either by collectors or by the Commissioner of Internal Revenue. (T. D.; June 1, 1883.)

**Sales of leaf tobacco by the producer.**

Referring to the sale of leaf tobacco by the producer thereof, it is held that the law as contained in section 3244, Revised Statutes, defines a retail dealer in leaf tobacco as a person whose business it is to sell leaf tobacco in quantities less than an original hogshead, case, or bale; or who sells directly to consumers or to persons other than dealers in leaf tobacco who have paid a special tax as such; or to manufacturers of tobacco, snuff, or cigars who have paid a special tax; or to persons who purchase in original packages for export. (T. D.; June 11, 1883.)

**Commissioner's control over allowances.**

As to the authority of the Commissioner of Internal Revenue to revoke his certificate of allowance after its transmission to the accounting officer of the Treasury, the Court of Claims ruled, in the case of R. C. Ridgeway, that, excepting the Sixth Auditor, it is no part of the duty of auditors to make decisions binding in any way upon anybody, and their opinions and decisions on controverted questions, if they choose to

**Commissioner's control over allowances**—Continued.

give them, have no official determining force. An allowance authorized by the Commissioner of Internal Revenue can not be reversed, annulled, nor reviewed by any other officer than the Controller, and a suit thereon may be maintained in the Court of Claims if the accounting officers refuse or delay to pass it for payment. It is as much under the Commissioner's control while passing thru the hands of the accounting officers as if it were in his own office and in his own hands, and he may revoke it at any time before consummation by payment, or at least before action he brought thereon. Until payment is made his authority over the matter is not exhausted. (T. D.; June —, 1883.)

**Transfers of grape brandy.**

In section 14 of an act entitled "An act to amend the laws relating to internal revenue," approved May 28, 1880, authority is conferred upon any manufacturer of medicines, preparations, compositions, perfumeries, cosmetics, cordials, and other liquors for export, manufacturing the same in a duly constituted warehouse, to withdraw from any distillery warehouse as much distilled spirits as he may require for said purpose without payment of the internal-revenue tax thereon; and section 15 of the same act provides for an allowance for leakage or loss by any unavoidable accident and without any fraud or negligence on part of the distiller, owner, exporter, carrier, or their agents or employees during transportation from a distillery warehouse to a manufacturing warehouse. After a careful examination of the statutes relating to the transfer of distilled spirits from distillery warehouses to manufacturing warehouses, it is held that to carry into effect the evident purpose of Congress the words "distillery warehouse," as employed in section 14 of the act of May 28, 1880, should be construed as embracing the special bonded warehouses authorized by the act of March 3, 1877, for the storage of brandy made from grapes. (T. D.; July 26, 1883.)

**Stamps for migratory sales of tobacco.**

Replying to an inquiry made by a collector as to his authority to issue special-tax stamps to persons desirous of traveling from place to place to sell tobacco and cigars at fairs and at similar public gatherings; the Commissioner of Internal Revenue said: "You are advised that you are authorized to issue a special-tax stamp for the sale of manufactured tobacco at all picnics, circuses, fairs, and other public gatherings within your own district, so that the holder of it may go from one of such gatherings to another and post up his stamp and sell thereunder without calling upon you repeatedly to transfer the stamp. He should, of course, be informed that he is not entitled to sell under the stamp at public gatherings in any other collection district without having first having registered the fact of removal with the collectors of both districts and having his stamp transferred." (T. D.; September 19, 1883.)

**"Medicines or alcoholic beverages."**

Since the repeal of Schedule A, following section 3437, Revised Statutes, it is held that where a preparation has been heretofore classed by the Bureau of Internal Revenue as a "medicine," but which, by reason of the large proportion of distilled spirits it contains, is susceptible of being used either as a medicine or as an alcoholic beverage, the manner of its sale and use will be the test of whether a seller of it shall be treated as a liquor dealer or not. (T. D.; September 13, 1883.)

**Returns of tax on circulation.**

It is apparent from returns heretofore received from banks, bankers, and others that only a very small portion of them are subject to tax on circulation. It would therefore seem unreasonable to exact from every bank, banker, and, as to notes paid out, from every business man in the country a return which would be in the great majority

**Returns of tax on circulation—Continued.**

of cases a truthful assertion of their nonliability to tax. Collectors are not required by law to furnish taxpayers with blanks to make the returns required by law. When such blanks are supplied by this office, it is in order to expedite business and to secure greater accuracy and uniformity of statement on the part of taxpayers. All persons who or institutions which are in fact indebted to the United States for tax on circulation are expected to make application to the collector for the proper blank form or be held to the penalties for neglect prescribed by the law. (T. D.; October 31, 1883.)

**Allowance for leakage on spirits stolen.**

It is held that the act of May 28, 1880, does not establish a presumption that there has been an actual leakage equal to the maximum quantity of spirits named in section 17 of said act for each special period. The act seems to be based on a presumption that packages of distilled spirits in a distillery warehouse contain just what they purport to contain, but allows this presumption to be rebutted by a regage, and in that way only. (T. D.; December 22, 1883.)

**Different packages of different liquors.**

It was held by the United States district court for the eastern district of Michigan, January 14, 1884, in the case of the United States *v.* William V. James, that a retail dealer in liquors may lawfully sell to the same person at the same time different packages of different liquors, altho the aggregate may exceed 5 gallons, provided no single package equals that amount; otherwise, of different packages of the same liquor. (T. D.; January 28, 1884.)

**Tobacco tax under section 2, act of March 3, 1883.**

By section 14, act of March 1, 1879, by which an internal-revenue tax was levied on manufactured tobacco, a tax of 16 cents per pound was imposed on "tobacco twisted by hand or reduced into a condition to be consumed in any manner other than the ordinary mode of drying and curing, prepared for sale or consumption, even if prepared without the use of any machine or instrument and without being pressed or sweetened." This tax was reduced to 8 cents per pound by the act of March 3, 1883. According to the law, as understood by the Commissioner of Internal Revenue, the tobacco named in the proviso to section 2, act of March 3, 1883, is leaf tobacco; and tobacco twisted by hand or otherwise treated, as described in the ruling, is manufactured tobacco, and therefore does not fall within the terms of the proviso. In other words, a farmer may sell to consumers leaf tobacco to an amount not exceeding $100 without liability to a special tax; but if he so treat it as to make it, according to the statute, manufactured tobacco, then the manufacturer's tax must be paid. Twisting is so treating it. (T. D.; February 19, 1884.)

**Proceeds of sales of bonded spirits.**

The Supreme Court of the United States, October term, 1883, in an action brought on a distiller's warehouse bond, *Held*, substantially, that: In the case of the sale of bonded spirits under forfeiture, the tax on them can not be collected of the sureties on the distiller's warehouse bond, the statute making the tax a first lien, implying an undertaking on the part of the United States to apply the proceeds of the spirits first to the payment of the taxes. (April 14, 1884.)

**Overdue taxes on distilled spirits in bond.**

In conformity sections 3184 and 3185, Revised Statutes, the penalty of 5 per cent and interest of 1 per cent a month accrue upon failure to pay an assessed tax within the time required by law. Said penalty and interest do not accrue for failure to remove spirits from a bonded warehouse within the three years limited by warehousing bond and can not be collected unless the tax on the spirits has been assessed. The law, however, under which it is proposed to enforce collection of overdue taxes on distilled spirits produced after July, 1881, requires the collector to proceed to col-

**Overdue taxes on distilled spirits in bond**—Continued.

lect the tax by distraint if the distiller or owner neglects to withdraw any bonded spirits and pay the tax thereon before the expiration of the time limited in the bond. But this provision does not exclude other remedies. (T. D.; May 28, 1884.)

**Invalidation of a distiller's bond.**

The United States circuit court, eastern division of Wisconsin, February 5, 1884, in a suit on a distiller's bond, in the case of The United States *v.* O'Neill and others, *Held*, in substance, as follows, viz:

(1) When, after a bond had been signed by two sureties, with the understanding between them and the obligor and obligee that it was to be signed by a third surety whose name was written in the bond, the name of the third surety was altered in the body of the instrument, with the knowledge of the obligee, by the substitution of a different surety, who then signed the bond, it is decided that the two sureties were discharged.

(2) Under section 3182, Revised Statutes, the Commissioner of Internal Revenue, in making a reassessment upon distilled spirits for the purpose of rectifying an error, is not confined to a period of fifteen months last past.

(3) Where a statute took effect March 3, changing the rate of tax upon spirituous liquors from 70 to 90 cents, and an assessment was made for a period previous to and including March 3 at 70 cents, it is held that, tho the statute was in force during the whole of March 3, so that the rate for that day should have been 90 cents, the taxpayer could not on that account dispute the validity of the assessment.

(4) Two assessments covering partially the same period will be presumed to be for different liquors till the contrary is shown, and an action on a bond conditioned upon the payment of an assessment will not fail because the complaint does not set forth the whole of the assessment. (T. D.; August 28, 1884.)

**Compensation of gagers for extra service.**

Refering to a petition from the gagers of the Louisville, Ky., district, for compensation claimed by them for extra service performed by them in making additional reports in cases where the distillers had concluded to export their spirits after they had been gaged for withdrawal on payment of tax, the commissioner recalls a ruling whereby owners of spirits in bond have been permitted to withdraw their spirits for export at any time prior to the payment of the tax or to the issuing of a warrant of distraint for the same upon an assessment list and whereby it is held that any official duty that gaugers may be called upon to perform in regard to such spirits must be performed without compensation from the distillers. The law does not allow any additional pay for such extra service. (T. D.; June 23, 1884.)

**Sales of distilled spirits and wines.**

In the matter of a criminal information, filed by the United States Attorney, the United States district court for the eastern district of Arkansas, October term, 1883, *Held* that distilled spirits and wines can not be lawfully sold in any quantity, or for any purpose, by any person who has not paid the special tax required by law. The law does not treat distilled spirits as a drug or medicine, and doctors and druggists are not privileged to sell it as such without first paying the special tax required of dealers in liquor. Where packages containing distilled spirits in a form to be got at by squeezing, suction, or any other process, and the spirits, not the fruit or other ingredients contained in the packages, is the inducement to their sale, purchase, and use, a person selling such packages must pay a special tax as liquor dealer. (T. D.; August 11, 1884.)

**Distilled spirits in bond—Revenue tax.**

In regard to the tax on distilled spirits now in bond, it is held that spirits produced in September, 1881, and included in warehousing bond of October 5, 1881, which remain in warehouse after October 5, 1884, should be reported by the collector for assessment on a list which will be received at the Bureau of Internal Revenue in time to be completed and assessments made by November 12, 1884. On the return of the list of assessments to the collector, he is required by law to give notice to the distiller or owner to pay the tax within ten days from date of said notice. If such person fails to pay the tax within ten days after the service or the sending by mail of such notice, the collector is required by section 3184, Revised Statutes, to collect the tax, with a penalty of 5 per cent additional upon the amount of tax, and interest at the rate of 1 per cent a month. And if said tax, penalty, and interest are not paid within ten days after demand, it is lawful for the collector, under section 3185, Revised Statutes, to make distraint therefor. (T. D.; August 21, 1884.)

**Free passes used by deputy collectors.**

The question arising as to whether a deputy collector has the right to travel on a free pass given him by a railroad company and to charge the United States, as a part of his expenses, with the amount which the fare would have cost had it, in fact, been paid, the Commissioner decides that such a claim should be disallowed, and the practice of making such a claim will be regarded as good cause for dismissal from office. The United States pays the actual and necessary traveling expenses of certain officers, among them deputy collectors in charge of divisions, and the Bureau of Internal Revenue requires each deputy to swear to the accuracy of his accounts and that the sums charged as expenses were actually paid out. (T. D.; May 8, 1884.)

**Liquor license—Purchase.**

The United States circuit court for the western district of Louisiana, May term, 1884, decided substantially as follows:

(1) A grocer who, without obtaining a license for selling liquor, purchases a barrel of whisky for a customer and enters on his books a charge against the customer for the price at which it was actually obtained from the liquor dealer does not transgress the spirit of the revenue laws.

(2) The fact that one is a grocer rather than in any other line of business should not raise a presumption of wrong doing against him in case of his purchasing a barrel of whisky to oblige a customer and his entering on his books a charge therefor.

(3) The revenue laws are for the purpose of aiding the collection of the Government revenue and taxes, and they should not be construed by the courts so as to become odious or oppressive to the people. (T. D.; April 25, 1884.)

**Revenue tax—Retroactive action unlawful.**

(1) The estate of a person who, at the time of the passage of the internal-revenue act of Congress, approved June 30, 1864, had already become entitled to and invested with an estate in fee in certain lands subject to his father's life estate, does not come within the operation of that act, as interpreted by the United States circuit court for the southern division of New York, July 26,1884.

(2) A retroactive operation is not to be given by construction so as to subject persons to a tax upon interests they may have acquired before the act of June 30, 1864, was passed. (T. D.; September 8, 1884.)

**Cigars improperly stamped—Presumption of innocence.**

In a case involving the forfeiture of certain cigars, the United States circuit court for the southern district of New York, July 28, 1884, *Held*, substantially, that—

(1) In case of a seizure of cigars alleged to be in boxes other than such as should have contained them according to the revenue laws, the natural and reasonable inference is that the cigars were removed from the factory in the condition in which they were found.

**Cigars improperly stamped—Presumption of innocence**—Continued.

(2) In prosecutions under the internal-revenue laws, it is incumbent upon the Government to show affirmatively the existence of every fact which is an element of the act made penal. However, this rule does not require every conjecture which may be started by the fertility of counsel to be overthrown. It suffices, if upon the evidence in the case, the existence of the facts can be legitimately presumed.

(3) A defense being that, in case of a seizure of cigars in boxes alleged to be improperly stamped the presumption of defendant's innocence makes it necessary to show that the cigars were not taken out of the properly stamped boxes and put into those in which they were seized, held that such an act could not have been done without violating some provision of the law and subjecting the offender to criminal punishment. The presumptions in favor of innocence neutralize each other. (T. D.; September 8, 1884.)

**Compensation of storekeepers and gagers.**

The Commissioner of Internal Revenue rules that on and after November 1, 1884, and until otherwise determined, the compensation of storekeepers and gagers assigned to distilleries having a surveyed daily capacity exceeding 20 bushels, and not exceeding 40 bushels, will be $3 per day. The compensation of those assigned to distilleries having a surveyed daily capacity exceeding 40 bushels, and not exceeding 60 bushels, will be $3.50 per day. The compensation of storekeepers and gaugers assigned to distilleries having a surveyed daily capacity exceeding 60 bushels will remain as now provided. (T. D.; October 7, 1884.)

**Recovery of money on collector's bond.**

In a case involving the liability of sureties on a collector's bond, to recover public money which the collector had collected but did not pay over, the Supreme Court of the United States, October term, 1884, ruled that a person appointed and commissioned as a collector of internal revenue under the act of July 1, 1862 (12 Stat. 432) is entitled to the compensation provided for by section 34 of that act, of percentage commission computed on the moneys accounted for and paid over by him from the time he enters on the duties of his office and his services are accepted, and not merely from the time he takes the oath of office and files his official bond. A collector of internal revenue appointed under this act is entitled, in a suit against him, on such a bond, brought to recover public money collected by him and not paid over, to have allowed as a set-off, money paid by him for publishing advertisements required to be made by section 19 of that act, if the amount is found to be reasonable and proper, altho the item was not formally allowed or certified by the accounting officers in the Treasury Department or otherwise. (T. D.; December 22, 1884.)

**Extension of bonded period—Distilled spirits.**

The Commissioner of Internal Revenue having, thru the Secretary of the Treasury, propounded to the Attorney-General of the United States the question whether distilled spirits in bond could lawfully remain in warehouse after the expiration of the three years bonded period, the Attorney-General advises that the spirits may lawfully remain in distillery warehouses after said period for a time reasonably required in the process of exportation, provided the proper declaration of a bona fide purpose to export is made and a bond given that it will be done within that reasonable time, and they are, after those things ared one, to be regarded as in process of actual exportation, altho delays may come from the difficulty of getting advantageous transportation rates and other facilities. (T. D.; January 24,1885.)

**Allowances to attorneys in revenue cases.**

Having reference to allowances to United States district attorneys for services in internal-revenue cases, it is held by the Department of Justice that, under section 838, Revised Statutes, fees are not due for such service in cases reported to district attorneys, except where, upon inquiry and examination, it is decided that the ends of justice require that judicial proceedings shall be instituted. (T. D.; March 2, 1885.)

**Liability of brewers to pay special tax.**

In answer to the inquiry whether brewers are liable to pay a special tax at any place whether or not they send beer C. O. D., the Commissioners holds that they are, if the beer thus shipped is bottled beer, or beer put up in any other packages than the original casks or barrels to which the tax stamps are affixed. If the beer is in the original packages bearing the proper stamps, brewers may send it marked "C. O. D." without involving themselves in special-tax liability, it being provided by the act of February 8, 1875, as amended by section 4, act of March 1, 1879, that "no brewer shall be required to pay a special tax as a dealer by reason of selling in the original stamped packages, whether at the place of manufacture or elsewhere, malt liquors manufactured by him or purchased and procured by him in his own casks or vessels, under the provisions of section 3349, Revised Statutes." (T. D.; March 11, 1885.)

**Dealers in distilled spirits, wines, or malt liquors.**

Construing the special-tax law in relation to dealers in distilled spirits, wines, or malt liquors, it is held that, in section 16, act of February 8, 1875, which imposes fine and imprisonment on "any person who shall carry on the business of a * * * retail liquor dealer," it is not business in the general commercial acceptation of the word that is meant, but business as it is defined by the internal-revenue law itself, namely, the selling or offering for sale of distilled spirits, wines, or malt liquors, otherwise than is therein provided and excepted. By section 18, act of February 8, 1875, amended by section 4, act of March 1, 1879, "every person who sells or offers for sale foreign or domestic distilled spirits, wines or malt liquors * * * in less quantities than five gallons at the same time," otherwise than as thereinafter provided, is required to be regarded as a retail dealer in liquors (or malt liquors, as the case may be), and, therefore, in the opinion of the Commissioner of Internal Revenue, is to be regarded as carrying on the "business" contemplated by section 16 of the same act. (T. D.; May 7, 1885.)

**Penal liability to special tax of "liquor dealer."**

The penal section 16, act of March 1, 1879, being designed to aid in the collection of revenue, as was said by the court in the case of Julius Wittig, it is not to be construed strictly like a statute intended to punish public immorality, but "liberally in favor of the revenue to prevent evasions," and the fact that by section 4, act of March 1, 1879, Congress has since deemed it necessary to exempt certain persons under certain circumstances from special tax for "a sale of distilled spirits, wines, or malt liquors," apparently necessitates now a severer construction than even that given to the law by Judge Lowell in the case of Wittig, viz, that "any course of selling, tho a restricted class of persons and without a view to profit, is within the meaning" of the statute, and requires us to hold that any sale of such liquors that is not within the exempting provisions of the law involves the person selling to special tax liability as a dealer. (T. D.; May 7, 1885.)

**Extension of time for exporting bonded spirits.**

Replying to the question as to what "good and sufficient reason" would entitle a holder of spirits under export bonds to an extension of time, the Commissioner of Internal Revenue said:

(1) Nothing suggests itself as a good and sufficient cause for extending the time for the transportation of distilled spirits from the distillery warehouse to the port of export beyond that already given.

(2) If any such cause should be pointed out in any particular case, the extension would probably not be one of months, but merely of the additional time absolutely necessary for the actual bona fide transportation. (T. D.; August 10, 1885.)

**Assessment and exportation of spirits.**

With the approval of the Secretary of the Treasury, the Commissioner of Internal Revenue directs that after August 15, 1885, collectors shall decline to approve

**Assessmenc and exportation of spirits**—Continued.

spirits transportation or exportation bonds where the time named in the bond for the delivery of the spirits at the port from which they are to be exported exceeds thirty days. He also revokes so much of Circular No. 283, dated January 15, 1885, as authorizes collectors to approve bonds given for the transportation or exportation of distilled spirits filed with them after the expiration of the three years' time limited by the warehousing bonds. (T. D.; August 15, 1885.)

**Inventories and monthly abstracts of manufacturers.**

With reference to annual inventories and monthly abstracts of manufacturers of tobacco, snuff, and cigars, collectors of internal revenue are advised that, in the absence of direct evidence of the sale or removal for sale or consumption of any tobacco, snuff, or cigars upon which a tax is required to be paid by stamps, without the use of the proper stamps, the law has provided the means for obtaining this information and the courts have sanctioned the means. Strong circumstantial evidence sufficient to make a prima facie case for assessment is obtained by the discovery that the manufacturer has not reported to the Government manufactured products corresponding with the material charged to him and not otherwise accounted for, and has failed to account for all the products which he has reported as manufactured, and has not shown that he purchased stamps of a sufficient value to pay the tax on the manufactured products reported sold. (T. D.; December 5, 1885.)

**Exemption of farmers, planters, and lumbermen.**

The attention of collectors is directed to the third section of the act approved March 3, 1883, which contains certain exemptions from special tax. It is limited conclusively to three classes of persons, viz, farmers, planters, and lumbermen, and the exemption applicable to these classes is conditioned and limited. The tobacco is to be sold or furnished only as rations or as supplies to the employees or laborers of the said farmer, planter, or lumberman. The sales must not exceed in quantity 100 pounds in any special-tax year, and the persons who make the sales must not be engaged in the general business of selling dry goods, groceries, or other similar supplies in the manner of a merchant or storekeeper to others than his own employees or laborers. (T. D.; January 4, 1886.)

**Affidavits on monthly returns should be made by principals.**

In response to the question, "Can a clerk, bookkeeper, compounder, or other employee of a firm, if authorized verbally or in writing, make the required affidavit on the monthly reports of rectifiers, wholesale liquor dealers, and cigar manufacturers," it is held that the criminal liability provided by law in case of refusal or neglect to make the reports or abstracts attaches beyond doubt to the proprietor, and not to the bookkeeper or agent. For the purpose of holding the principal to the proper liability under the law, the Bureau of Internal Revenue has required that in all cases where practicable he shall himself verify the monthly return by oath. If present and physically able to perform the duty imposed upon him by law, he should not be excused from its performance because his manager or bookkeeper has greater familiarity with the facts. (T. D.; May 21, 1886.)

**Penal sum of tobacco manufacturers' bond.**

The amendatory act, approved March 1, 1879, section 14, materially changed the provisions of law relating to the penal sum of tobacco manufacturers' bonds. It fixed definitely the minimum and the maximum sums, leaving the collector to use his discretionary power within these limits and to require the penal sum of the bond to be proportioned to the amount of business that the manufacturer proposed to do, giving him the right of appeal to the Commissioner of Internal Revenue. At the time of the passage of the aforesaid act the tax on manufactured tobacco was three times as great as now. Therefore the interests of the Government were proportionately greater in the tobacco manufactured, and consequently a correspondingly larger bond was required of the manufacturer. (T. D.; May 12, 1886.)

**Oleomargarine as defined in the act of 1886.**

With reference to sections 1 and 2, act of August 2, 1886, defining butter and also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine, the solicitor of internal revenue holds that under the construction put upon the act by the regulations of the Treasury Department all substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral, all mixtures and compounds of those substances and all lard extracts and tallow extracts are, "without qualification," declared to be "oleomargarine" for the purposes of this act and to be taxable whether made in imitation or semblance of butter or not, and whether calculated or intended to be sold as butter or not. This seems to be the natural construction of the act. (T. D.; October 22, 1886.)

**Commissions payable in compromise revenue cases.**

In determining the question whether a United States attorney is entitled in the compromise of cases under the internal-revenue laws to receive the 2 per cent commission provided in section 825, Revised Statutes, by simply making a request therefor, or whether his account should be proved in court under the act of February 22, 1875, the Comptroller of the Treasury calls attention to the terms of said act to the effect that "before any account, payable out of money of the United States, shall be allowed by any officer of the Treasury in favor of clerks, marshals, or district attorneys, the party claiming such account shall render the same to a United States circuit or district court." It is also observed that section 3617, Revised Statutes, provides that "the gross amount of all moneys received from whatever source for the use of the United States * * * shall be paid by the officer or agent receiving the same into the Treasury without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claims of any description." In view of these terms of the law it appears that in all cases contemplated by section 825, Revised Statutes, the gross amount accepted in compromise cases under the internal-revenue laws should be covered into the Treasury, and that all accounts for commissions should be presented to the proper court for its order before rendering it to the Treasury Department. (T. D.; October 16, 1886.)

**Oleomargarine sales.**

A retail dealer in oleomargarine is permitted by section 6, act of August 2, 1886, to sell as much as 10 pounds of oleomargarine at one sale, but as the same section requires him to sell it "from" the original stamped package and section 3 of the act precludes his selling the original stamped package without payment of special tax as a wholesale dealer, the only course for him to pursue under the circumstances is, as in the case of cigars and tobacco, to sell this quantity directly from the original stamped package, and deliver it from another package, properly marked and branded, to the customer. (T. D.; November 17, 1886.)

**Retail dealer in oleomargarine.**

Under the act imposing a tax on oleomargarine and a special tax on dealers therein, approved August 2, 1886, the keeper of a restaurant who furnishes the article merely at his table to guests can not be regarded as a retail dealer in oleomargarine. By the terms of said act the retail dealer is confined strictly to sales "from original stamped packages." (T. D.; December 2, 1886.)

**Chemical and pharmaceutical specialties.**

Having reference to alcoholic compounds that are offered to the public as medicines only, it is held that if they are composed of spirits in combination with drugs, herbs, roots, etc., and the labels on the bottles give the names of the diseases for which they are held out as remedies, they are to be regarded as medicines until the facts ascertained as to the purpose for which they are usually sold or used show them

**Chemical and pharmaceutical specialities**—Continued.

to be beverages, and until such facts are obtained druggists and merchants who sell these compounds in good faith as medicines only are not to be required to pay special tax as retail liquor dealers on account of such sales. Every person who sells them as beverages either by the bottle or by the drink, or sells them knowingly, to customers who desire them for use as beverages, is required to pay a special tax as a retail liquor dealer. (T. D.; January 13, 1887.)

**Oleomargarine without stamps—Seizure.**

It is the duty of every collector of internal revenue to seize, under the provisions of section 15, act of August 2, 1886, all packages of oleomargarine subject to tax under that act that shall be found without stamps or marks as therein provided. In making such seizure the collector must decide to the best of his ability whether the substance is made in imitation or semblance of butter, or when so made is calculated or intended to be sold as butter or for butter, and, in case the claimant contends that the article seized is not oleomargarine, he may submit a sample thereof under the provision of section 14, act of 1886, to the Commissioner, who is authorized to decide finally whether the substance is subject to tax and consequently to forfeiture. (T. D.; February 4, 1887.)

**Limitation of relatives in revenue service.**

The practice of allowing several persons related to each other by blood or by marriage to hold positions in the Internal-Revenue Service is not approved by the Department, and while the objection may sometimes be waived for the purpose of securing the services of a specially qualified or trusted person in a difficult or confidential position, the principle laid down in Circular 44, August 17, 1877, will be adhered to, and is reaffirmed in the following ruling, viz: "No more than two members of the same family (each family to be regarded as including all its relatives by blood or marriage) shall be appointed or retained in the Internal-Revenue Service in any collection district." In making the changes and recommendations required by the aforesaid circular collectors will observe that it prohibits both the appointment and the retention of more than one relative of the collector in each district. (T. D.; March 24, 1887.)

**Notices to delinquent taxpayers.**

Where practicable, and especially in cases where distraint or suit on a bond is likely to follow, service should be made personally by a deputy collector, who will make a return to the collector. In cases where it is not practicable to make service either by leaving the notice with the party personally or by leaving it at his dwelling or place of business it may be sent by mail. In that case the return should state the date of mailing and that the notice was addressed to him at his usual post-office address, naming it. The duplicate notice with proof of service, which is retained by the collector, should be attached to the assessment list upon which the taxes are assessed, to be bound with it. (T. D.; March 30, 1887.)

**Spirits withdrawn from distillery warehouses.**

In case spirits are withdrawn from a distillery warehouse upon payment of tax the United States loses nothing if the owner waives the privilege of requesting a regage, because in that case the tax must be paid upon the original gage. If, however, the withdrawal of any package of spirits is permitted free of tax without a regage at the time of such withdrawal, the United States would lose the tax on whatever spirits had been removed or had been lost prior to the day of withdrawal in excess of the maximum fixt by section 17, act of May 28, 1880. The Attorney-General holds that, even in sales of spirits to the United States, the immunity from liability to tax is limited to the actual contents of the packages, and does not extend to a deficit beyond the loss limited by law. (T. D.; August 15, 1887.)

**Validity of certain indemnity bonds.**

In the case of the Diamond Match Company *v.* United States, involving an action on an indemnity bond, etc., the United States circuit court for the district of Connecticut, June 23, 1887, *Held* that a bond of indemnity for the cost of manufacture in advance of orders, estimated three months' supply of private die stamps, made in accordance with a regulation of the Commissioner of Internal Revenue and given by the obligor in order to obtain, in the transaction of his business, an accommodation which the Commissioner might properly extend, but was not legally required to grant, is not void upon the ground that it was exacted colore officii or for lack of consideration. (T. D.; September 5, 1887.)

**Forfeiture cases—"Judgment of forfeiture."**

The attention of the Commissioner being called to the provisions of section 3332, Revised Statutes, which provide that, when any judgment of forfeiture is recovered against a distillery used, or fit for use, in the production of distilled spirits because no bond has been given, or against any such distillery having a registered producing capacity of less than 150 gallons a day, for any violation of law, every still, doubler, etc., shall be destroyed so as to prevent the use of the same or any part thereof for the purpose of distilling, and inquiring whether these provisions apply in cases where stills are seized and sold under section 3460, Revised Statutes, it is held that they do. Proceedings under section 3460 are proceedings for forfeiture, although not in court, and the property, when sold, is forfeited. The words "judgment of forfeiture," while they usually apply to a proceeding in court, include also a case of forfeiture under section 3460. Such was evidently the intention of this and the Commissioner of Internal Revenue has always placed this construction upon it. (T. D.; December 10, 1887.)

**Canadian bank notes—Revenue tax.**

It is held that, under the provisions of section 20, act of February 8, 1875, all banks located in the United States, whether State or National, are legally liable to a tax of 10 per cent on the amount of Canadian bank notes used for circulation and paid out by them. The law has never been a "dead letter." There has been no time since its enactment when cases under it have not been pending either in the Bureau of Internal Revenue, or in the courts, or both. It is to be regretted, if the local officers have failed to remind the banks of their duty to make returns of Canadian bank notes, together with all the other circulating notes named in said section, according to the requirements of section 3414, Revised Statutes. Such failure is no legal excuse for the neglect of the banks to make returns in compliance with the law. (T. D.; February 11, 1888.)

**Assessment and collection of taxes.**

The authority to make assessments of taxes due is limited to the fifteen months next succeeding the delivery to the collector of the list upon which the assessment might have been made, but from which it was omitted. If returns covering the rest of the time for which there is liability are voluntarily made the taxes can be assessed in the Bureau of Internal Revenue and be gathered by the collector. But the only mode of enforcing the payment of them is by suit. The collection of taxes legally due from solvent taxpayers is a matter which does not rest in the discretion of the Commissioner and can not be omitted, howsoever harsh the taxes may be. (T. D.; February 11, 1888.)

**Notes of Dominion of Canada—The 10 per cent tax.**

The attention of the Commissioner being called to the fact that "the Canadian money in circulation in the United States is and has been notes of the Dominion of Canada and not bank notes," and it being alleged that such notes are not within the statute and are not subject to the 10 per cent tax, it is decided, in modification of the ruling made February 11, 1888, that no liability to tax is incurred by banks in paying

**Notes of Dominion of Canada—The 10 per cent tax—Continued.**

them out, inasmuch as they are not included among the notes named in either section 3412 or 3413, Revised Statutes, nor among those named in section 20, act of February 8, 1875. By those sections a tax is imposed for the paying out of the notes of any person, firm, town, city, or corporation, including municipal corporations, State banks, State banking associations, and associations of every description, except National banking associations, if such notes are used for circulation. The Dominion of Canada is a body politic, it is true, but it is not a "municipal corporation" within the meaning of the statute; nor is it a "person," either in the ordinary legal signification of the word or in the definition given by the statute. (T. D.; February 24, 1888.)

**Suits for taxes.**

Hereafter no suit will be brought for the recovery of unpaid internal-revenue taxes until the collector of the district shall have submitted to the Bureau of Internal Revenue a full report of all material facts and circumstances connected with the case, and shall have received from the Commissioner, in accordance with section 3214, Revised Statutes, express authority to report the case to the United States attorney for suit. Where a bond has been given to secure the payment of the taxes for which suit is proposed, the collector should report the date and penal sum of the bond, and state whether there is reasonable expectation, founded upon careful inquiry, that the collection of a judgment on such bond, when recovered, could be effected. (T. D.; March 30, 1888.)

**Druggists selling liquors without special tax.**

It is held that, under the provisions of section 3246, Revised Statutes, amended, a druggist is permitted to sell spirits and wines and use them in combination with drugs, in the preparation of medicines that are not beverages and to sell such medicines without paying special tax as a liquor dealer under the internal-revenue laws of the United States. But under the uniform rulings of this office and the decisions of the United States courts, he can not, without subjecting himself to this special tax, sell spirits or wines that are not combined with drugs or materials of any kind taking those liquors out of the class of beverages, even when he sells the liquors on a physician's prescription and for medicinal use only. (T. D.; May 11, 1888.)

**Oleomargarine—Its prohibition not unconstitutional.**

In the case of Powell *v.* The Commonwealth of Pennsylvania, being in error to the supreme court of Pennsylvania for the review of a judgment sustaining the validity of a State statute relating to the manufacture and sale of oleomargarine butter, the United States Supreme Court, April 9, 1888, *Held* that a State statute, prohibiting the manufacture of and the having in possession with intent to sell any article designed to take the place of butter and cheese made from oleaginous substances other than unadulterated milk or cream, and prohibiting the manufacture and sale of and having in possession with intent to sell imitation or adulterated butter or cheese, is not in conflict with the Federal Constitution. (T. D.; May 28, 1888.)

**Relief from assessments under section 3309, Revised Statutes.**

When a distiller of spirits, from either grain or molasses, is notified of a proposed assessment under section 3309, Revised Statutes, and he has reason to believe that the liability in whole or in part has been caused by an unavoidable accident or by a misunderstanding of the law and regulations, and claims relief under section 6, act of March 1, 1879, as amended by section 8, act of May 28, 1880, affidavits will be required of the distiller, storekeeper, gauger, and other witnesses, if any, fully setting forth the facts and the extent to which the actual product or the required capacity has been affected by accidents or misunderstanding. These affidavits should be sent to the deputy collector of the district in which the distillery is located and by him to the collector, who should forward the same with his recommendations to the Commissioner of Internal Revenue, for his action in the premises. (T. D.; May 21, 1888.)

**Rice beer fermented—Special tax.**

Rice beer, fermented, is a fermented liquor made from a substitute for malt within the meaning of the first subdivision of section 3244, Revised Statutes. Tax is imposed thereon by section 3339. The special tax of a brewer is required to be paid on its manufacture for sale, and dealers therein are required to pay special tax as malt liquor dealers. (T. D.; August 6, 1888.)

**Production of revenue records in State courts.**

The Bureau of Internal Revenue has no desire to throw any unnecessary obstacle in the way of the enforcement of State laws, even though such enforcement should tend to diminish the internal revenue. But it does not concede the legal right of a State court to compel the production of the records of internal-revenue offices for use in the trial of persons indicted for violating State laws. Prosecuting officers in different States have made efforts to compel their production, and this office has uniformly proposed to transfer the question to a Federal court, if necessary, for the purpose of having it judicially determined. But the question, it seems, has not reached the United States courts and is still an open one. (T. D.; March 31, 1888.)

**Disclosures of official records in trials under indictment.**

A special-tax payer is required under severe pains and penalties to make his return under oath. The information is extorted from him. It is largely in the nature of a privileged communication which he is required to make to the revenue officer for revenue purposes and for revenue only. It is not believed the courts will require a disclosure of evidence thus obtained for use in a criminal prosecution of him who furnished it. It is respectfully insisted that neither the return itself nor information derived from it should be admitted on trial, especially if objected to by the accused. In the case of Gardner *v.* Anderson, United States court, district of Maryland, altho the point involved was as official communications between officers of the Government, the court said that "the communication was, in its nature, an official communication relating to public business which it was sought to prove by means of a witness whose only knowledge of it was derived from his official employment, which was contrary to public policy and not to be permitted." (T. D.; March 11, 1888.)

**Suits for taxes—Revivals of old judgments.**

Where a bond has been given to secure the payment of the taxes for which a suit is proposed, the collector should report the date and penal sum of the bond and state whether there is a reasonable expectation founded upon careful inquiry that collection of a judgment on such bond when recovered could be effected. Whenever the original execution issued upon a judgment recovered in an internal revenue suit in favor of the United States shall have been returned by the marshal with the indorsement of "nulla bona," or words to that effect, no alias execution shall issue, nor shall any proceedings be commenced by the United States attorney to revive any such judgment without authority therefor received from the Commissioner of Internal Revenue; but whenever the said attorney shall be of opinion that upon a new execution, if issued, moneys can be collected to the amount at least of the costs incurred, he shall so state to the Commissioner and ask for instructions. (T. D.; October 3, 1888.)

**Warehousing of brandy produced from apples and peaches.**

The object of the act of March 3, 1877, extended in scope by the act of October 18, 1888, was to confer on each distiller of brandy from grapes the privilege at the time of rendering his monthly return of materials used and spirits produced by him, of either immediately paying the tax on the spirits or under certain regulations and, after the affixing of certain stamps, of causing them to be removed in bond to one of the special bonded warehouses provided by the act. Under the provisions of the act of October 18, 1888, distillers of brandy from apples and peaches also had

**Warehousing of brandy produced from apples and peaches**—Continued.

the privilege of choosing for the first time on rendering their monthly returns for the month of October, 1888, to pay the tax or to remove in bond as already stated. (T. D.; January 23, 1889.)

**Loss of distilled spirits in bonded warehouses.**

If any distiller or owner, either by himself or by one of his agents or employees, removes spirits from one package to another in the bonded warehouse for the purpose of equalizing the wastage, or for any other purpose except in case of removals under permit to new packages for exportation, or to preserve the spirits from loss or wastage as provided by regulations, the collector will require the payment of the tax on the original gage of all such packages, and no allowance will be made for any loss appearing therein. Attention is called to section 3256, Revised Statutes, which provides that "Whenever any person evades or attempts to evade the payment of the tax on any distilled spirits in any manner whatever he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded." See also section 3257, Revised Statutes. (T. D.; June 15, 1889.)

**Liability to special tax of the successor in business of a firm.**

Relative to the liability to special tax of the successor in business of a firm which is dissolved before the expiration of the special-tax stamp, it is held that where there is no dispute or controversy between the remaining members of the firm as to the right of the remaining member to use the firm stamp, and no new members are introduced into the firm, the special-tax stamp of the firm may, upon application to the collector and registration under the provisions of section 3241, Revised Statutes, by such successor, be transferred to any other place to which the business is removed in the same manner that the original firm might have had such transfer. But where, upon a firm's dissolution, its members disagree as to the successorship, and it does not plainly appear who is the successor, or, where one or more of the old members remain at the old stand and continue the business, and others take the special stamp away and carry on the same business at another place, the collector should decline to transfer the stamp and should call upon both parties to make return and pay the special tax. (T. D.; April 5, 1889.)

**Suits for taxes—Revival of old judgments.**

Whenever the original execution issued upon a judgment recovered in an internal-revenue suit in favor of the United States shall have been returned by the marshal with the indorsement nulla bona, or words to that effect, no alias execution shall issue, unless the United States attorney shall be of opinion that upon a new execution, if issued, moneys can be collected to the amount at least of the costs incurred; he may then direct in writing an alias execution to be issued, but if it be necessary to revive the judgment, it shall be his duty to so state to the Commissioner of Internal Revenue and ask for instructions before proceeding. (T. D.; June 21, 1889.)

**Sales of manufactured tobacco by retail dealers.**

In considering the question as to the manner in which manufactured tobacco may be legally sold or offered for sale by retail dealers under the provisions of section 3363, Revised Statutes, it is held that when the act of June 6, 1872, was past providing that "wood, metal, paper, or other materials may be used separately or in combination for packing tobacco," this office took the ground that under a fair construction of the law this act would so modify the provisions of section 62, act of July 20, 1868, as to allow tobacco to be retailed from packages not wooden. But when the Revised Statutes were subsequently enacted, not only the provisions of the act of June 6, 1872, but also the provisions of section 62, act of July 20, 1868, providing that tobacco could be sold at retail by retail dealers only from wooden packages, were enacted, so that, thereafter, both sections unquestionably had and now have the force of existing law. (T. D.; October 22, 1889.)

**Special-tax stamps so worded as to be transferable.**

A dealer in oleomargarine at a city market who transfers his business from one stand to another, or from one market to another, is entitled to have his special-tax stamp transferred and retransferred as often as he thus moves under section 3241, Revised Statutes. Collectors are now permitted to issue to such dealer a special-tax stamp in general terms, for example, "at markets in the city of Cleveland," so that in removing from one stand to another the dealer may at the same time remove his stamp and post it up without applying for its formal transfer. When he is found carrying on business in any market at a stand where this stamp is not posted up he should be reported immediately to the Commissioner of Internal Revenue and to the United States district attorney. (T. D.; November 14, 1889.)

**Shipments of spirits marked C. O. D.**

With reference to distilled spirits when shipped to be paid for on delivery, the ruling dated March 5, 1885, is modified, it being now held that when an offer is made bona fide by any person to purchase distilled spirits, or any other goods for the sale of which special tax is required by the internal-revenue laws, and an order is given therefor with the request that the price be collected at the time and place of delivery, and such order is accepted by the seller and the goods are separated from the other goods of the seller at his place of business, authorized by the law, and are there set apart as the property of the person ordering, and so delivered to the carrier, with instructions to deliver them to the purchaser at the place named by him and to collect the purchase money at that place, it is held that the place of sale is the place where such order is received, and that the special tax is not required by the law to be paid at the place of delivery and the purchase money collected in accordance with the purchaser's request. (T. D.; January 13, 1890.)

**Beverages taxed as distilled spirits.**

It is held that beverages, under whatever name sold, which are compounded with water, sirups, alcohol, and fruit flavors, are compounds of distilled spirits within the meaning of the third paragraph of section 3244, Revised Statutes, and persons making them for sale are required to pay special tax as rectifiers and also special tax as liquor dealers for selling them, and all persons who sell them are required to pay special tax as liquor dealers. (T. D.; January 23, 1890.)

**Surveys of distilleries—Section 3264, Revised Statutes.**

Concerning surveys of distilleries in accordance with the provisions of section 3264, Revised Statutes, collectors of internal revenue are advised that the importance of these surveys for the protection of the revenue, and for establishing the just liabilities of the distiller, requires that the surveying officers shall exercise the utmost care to ascertain and determine in every instance the full and true power of the distillery to produce spirits. Where distilleries have already been surveyed their operations, as exhibited by the monthly returns or as observed by revenue officers, should be carefully considered by collectors and compared with the requirements of their respective surveys, with a view to recommending to this office a resurvey in any case where the product of the distillery is inadequately represented by the existing survey. (T. D.; March 1, 1890.)

**Requirements of the statute as to surveys.**

The records of the Bureau of Internal Revenue show that many surveys of distilleries are placed too low. Many distilleries with a surveyed capacity of 2½ gallons to the bushel are reporting on an average more than this number of gallons. It is required by law that every distillery shall be surveyed at its true producing capacity. No deficiency tax shall be assessed if 80 per cent of the surveyed capacity be produced and reported. It is believed that this 20 per cent margin is quite sufficient to protect the distiller from any possible loss on account of imperfect mashes, bad material, or other casualty. (T. D.; March 1, 1890.)

**Unlawful use of penalty envelops.**

Certain collectors and deputy collectors having furnished taxpayers with penalty envelops in which to inclose returns to the collector, it is held that such use of penalty envelops is unlawful. These envelops can only be used for official mail matter between officers of the United States, or between such officers and an executive Department of the Government, or as provided by the act of July 5, 1884, which declares that "any Department or officer authorized to use the penalty envelops may inclose them with return address to any person or persons from or thru whom official information is desired, the same to be used only to cover such official information and indorsements relating thereto." Returns to be made by distillers, tobacco manufacturers, etc., under the internal-revenue laws are not regarded as official information coming within this provision. Any person making use of such official envelops to escape payment of postage, except as authorized by law, is liable to a fine of $300 under section 5, act of March 3, 1877. (T. D.; May 1, 1890.)

**Delays in exportation of tobacco, cigars, etc.**

Hereafter in case the transportation company giving the bill of lading, conditioned for the delivery of manufactured tobacco, cigars, cigarettes, and snuff, withdrawn for exportation free of internal-revenue tax, is willing, the collector of customs may allow the same to remain in its warehouses at the port of export until the foreign-bound vessel is ready to receive the same for a period not exceeding fourteen days, provided he is satisfied with the security of the warehouse, that it is under proper surveillance, and that he and his officers have free access thereto, and that such delay does not prevent the collector from issuing his clearance certificate in time to reach the internal revenue collector within the forty-five days' limit fixt by the bond. In such cases, however, the exporter or his agent at the port of export may apply for a certain specified extension of time on the bond as provided in article 40 of the revised series. Such application should be made in time to reach the Commissioner of Internal Revenue before the expiration of the forty-five days, stating why the specified additional time is needed. (T. D.; August 5, 1890.)

**Dealers in leaf tobacco and retail dealers—Repeal of special tax.**

In reply to inquiries, the Commissioner of Internal Revenue advises that while under section 26, act of October 1, 1890, a dealer in leaf tobacco would not be required to pay any tax or to take out any special-tax stamp under the internal-revenue laws on account of sales of leaf tobacco on or after May 1, 1891, even tho he should retail the tobacco, yet in other respects the distinction between a dealer and a retail dealer in leaf tobacco is maintained by the statute. If, therefore, a dealer in leaf tobacco should engage in retailing the tobacco, he would be required, under penalty, to register as a retail dealer in leaf tobacco, keep the required book, and make reports therefrom of all his purchases and sales in the manner prescribed by the law and the regulations. (T. D.; November 4, 1890.)

**Oleomargarine—Concealing marks, brands, and stamps.**

Referring to the practice of some wholesale dealers in oleomargarine of sending to their customers oleomargarine in original stamped packages inclosed in boxes, barrels, or jute bags, or covered with burlap so as to conceal from view the marks, brands, and stamps required to be placed upon the package, it is held that the law and regulations in this respect are intended to inform the purchaser of the true article of merchandise he purchases, and to reveal the actual contents of the package. If manufacturers and dealers are permitted to send out or to ship their packages so inclosed or concealed as to hide from observation the required marks, brands, and stamps this object will be defeated. Illegible or concealed marks and brands are not those contemplated by the law and the regulations. (T. D.; January 22, 1891.)

**Persons liable to special tax—Registration under act of 1890.**

By the provisions of section 26, act of October 1, 1890, all special taxes theretofore required from dealers in and manufacturers of tobacco and cigars are repealed on and after May 1, 1891. It is held, however, that every dealer in leaf tobacco, retail dealer in leaf tobacco, manufacturer of tobacco, and peddler of tobacco is required by law to register with the collector of internal revenue in the district in which such business is carried on, his name, style, place of business, trade, or business. Dealers in manufactured tobacco (or cigars) are not required to register. (T. D.; February 12, 1891.)

**Marks and brands on oleomargarine packages.**

The removal of oleomargarine from the original package until bargained for and sold is contrary to law. It has been held, however, that the placing of a portion of the contents upon the lid or cover of the package, in the customary manner of the retail trade in such products, may be permitted, provided that in so doing none of the marks, brands, stamps, and notices required on the packages are concealed. For this purpose the lid or cover of the package can not be detached or turned over so as to hide from view the brand upon the cover or the stamp and notice upon the side of the package. Every package must he conspicuously marked and branded. (T. D.; March 12, 1891.)

**Strip stamps for packages of plug, cavendish, and twist tobacco.**

The use of strip stamps on small packages of plug, cavendish, and twist tobacco for sample or other purposes for distribution by mail, etc., by manufacturers of tobacco is now permitted. Each package, whether of wood, paper, or other material, must have securely affixt thereto the proper stamp conforming to the weight of the contents, and so attached as to effectually seal the same and render it impossible to open the package or remove the contents without destroying or breaking the stamps. Proper cancellation of the stamp by writing or imprinting and the affixing of the caution label by the manufacturer is also requisite. (T. D.; July 16, 1891.)

**Regulations as to packages for exporting oleomargarine.**

It is ruled that manufacturers may put up oleomargarine for export in wooden, tin, or other vessels containing not less than 1 pound each, which must, however, be packed in tubs, firkins, or other packages as indicated heretofore with reference to the marking, branding, stamping, and labeling as required by law, provided that the application for the withdrawal of the oleomargarine for exportation fully sets the kind and capacity of each vessel and the number thereof put into each tub, firkin, or other package; and provided each vessel is inspected by the collector of internal revenue or his deputy, the inspection showing that the vessels, their contents, their capacity, etc., are found to agree with the statements made in the application for withdrawal. (T. D.; July 9, 1891.)

**Relief from unjust assessments—Section 3309, Revised Statutes.**

When a distiller of spirits from grain or molasses is notified of an assessment under section 3309, Revised Statutes, and believes that the liability in whole or in part was caused by unavoidable accident or by a misunderstanding of the law and regulations, and claims relief under section 8, act of May 28, 1880, affidavits will be required from the distiller, storekeeper, gauger, and other witnesses, if any, setting forth the facts as to the accident or the misunderstanding. The affidavits should be sent to the deputy collector of the division in which the distillery is located, who should diligently inquire into and state the facts in the case, give an estimate of the loss due to accident or to a misunderstanding of the law and regulations, and transmit the papers to the collector, who should forward the same, with his opinion to the Commissioner of Internal Revenue for adjustment. (T. D.; July 15, 1891.)

**Lien on distilled spirits assessed for tax.**

In the case of Crystal Springs Distillery Company *v.* Attilla Cox, collector fifth district of Kentucky, the United States district court for Kentucky, October 6, 1891, *Held* substantially that possession and a statutory lien are retained by the United States in the case of distilled spirits deposited in a distillery warehouse subject to the payment of tax. When this lien is endangered by excessive loss, the Commissioner of Internal Revenue has authority under the act of May 28, 1880, section 4, to declare the tax due, provided the loss is not that specified in section 3221, Revised Statutes, as "actual destruction by accidental fire or other casualty." The excessive and unusual summer heat and undiscovered worm holes in a whisky barrel, alleged in the petition, are not casualties within the meaning of the act. (T. D.; October 19, 1891.)

**Sureties on bonds of gagers, storekeepers, and deputy collectors.**

Hereafter neither a distiller, rectifier, nor wholesale liquor dealer will be accepted as surety on the bond of any gager, storekeeper, or storekeeper gauger; and each collector is hereby instructed to give due notice of this ruling in his district, and, in his certificate on the back of every such bond as to the sufficiency of the sureties, to add briefly a statement that neither surety is engaged in the business referred to in the bond. Collectors are further instructed that hereafter they should not accept as surety on the bonds of their deputies any distiller, rectifier, liquor dealer, brewer, manufacturer of tobacco, snuff, cigars, or manufacturer of oleomargarine. (T. D.; December 12, 1891.)

**Inspection and weighing of maple sugar.**

The regulations in regard to maple sugar provide that collectors should establish central places at which the sugar may be brought to be weighed by producers, who are to be notified within which division or subdivision they are included and where the sugar may be weighed and inspected. After the producer has been notified where he should carry his sugar to be weighed he must continue with the same weigher thru the season, unless a change is made by the authority of the collector of the district. (T. D.; March 16, 1892.)

**Verification of landing certificates under revenue laws.**

In view of the difficulty often experienced in obtaining the oath of the master and mate to landing certificates covering articles exported from the United States by steamship lines, collectors of customs are authorized, in all cases of exportation under internal-revenue laws where the articles are exported by steam vessels belonging to or chartered by any steamship line having an agent at the foreign port of landing, to accept in lieu of the prescribed oath of the master and mate the sworn statement of such foreign agent. The statement of the agent in such cases must be substantially in the form heretofore prescribed for the master and mate of the exporting vessel, and must be sworn to before a United States consul or some foreign revenue officer having a seal. (T. D.; February 9, 1893.)

**Appointments in the revenue service.**

In recommending persons for appointment as gager, storekeeper, or storekeeper and gauger, collectors will require each person to make an application in writing, addressed to the Secretary of the Treasury, stating his age, legal residence, place of nativity, service in the Army or Navy, if any, names of relatives, if any, in the Government service and in what capacity employed; experience in the duties of the office for which he applies; business in which engaged at date of application; also whether or not he holds any State or municipal office, and, if so, stating fully the nature and title of such office. The application must be accompanied by testimonials as to character, etc., and addrest by the collector of the district to the Secretary of the Treasury and forwarded to the Commissioner of Internal Revenue, with recommendations. (T. D.; February 20, 1893.)

**Producers of sugar—Applications and bonds.**

The act approved October 1, 1890, requires that the notices, applications for bonds, and license of sugar producers shall be filed with the Commissioner of Internal Revenue "prior to July 1." By a liberal construction, the Commissioner has held that, if these papers were filed in the collector's office, or with a deputy collector prior to July 1, or if they were deposited in the mail in time to reach the collector's office by June 30, in the ordinary course of mail, it was a sufficient compliance with the law; also, that, where such papers were filed originally within the time prescribed, but were defective and returned for correction, or to have new papers executed, it has been held that they should be received as filed in time. Where applications for license and bonds were received after June 30, but which the parties claim were deposited in the mail in time to reach the collector's office, the collector should forward the same and report the facts. It will be necessary for the parties to show by affidavit at what time and place the papers were deposited in the mail, and the matter should be fully investigated to determine whether the delay was the fault of the mail or of the producer. (T. D.; July 6, 1893.)

**Stamps for tax on beer levied upon or attached by sheriff.**

The statutory requirement that stamps for tax on beer shall be sold by collectors under section 3341, Revised Statutes, "only to the brewers of their respective districts especially," is a limitation which can not be held applicable to a case in which the sheriff of a county has levied upon a brewer's stock of beer in the storage vaults; and collectors are authorized and directed to sell to the sheriff stamps for the tax on beer, levied upon, or attached by him, which he offers to sell and deliver to a purchaser at a judicial sale. Where a sheriff or other officer, acting under orders of court, sells malt liquor on which the tax has not been paid, before he can make delivery and give a legal title as against the United States he must buy stamps and affix them to the packages. (T. D.; February 15, 1894.

**Reinspection necessary to any abatement of tax.**

In response to the inquiry whether, in the event of an advance of tax on distilled spirits held in bond at the time of the passage of a law pending in Congress, the holders of such spirits may deposit with the collector of internal revenue, where such spirits are in bond, the amount of tax and remove same before the law takes effect and, subsequently, be rebated the allowance by law for the time held in bond on actual loss, as provided by law, collectors are advised that the original obligation of the distiller is to pay the tax on the quantity ascertained by the original gage made upon the deposit of the spirits in the warehouse, and that the Government can not receive a tax upon a less quantity, except upon actual reinspection prior to the payment of the tax and the ascertainment of such quantity as by law provided. If the tax be paid on the original gage, there is no ground for the rebate or refund of any portion of that tax thereafter. (T. D.; June 30, 1894.)

**Effect of pending revenue act upon spirits in bond.**

Collectors are directed to accept payment of tax upon spirits in bond at the rate fixt by law prior to the change of rate made by a subsequent or pending statute, the payment being governed by the original gage unless there has been a reported regage of the spirits for which proper entry for withdrawal has been made. (T. D.; July 18, 1894.)

**Leaf-tobacco dealers to qualify as manufacturers.**

It is held that all persons selling leaf tobacco, except as provided in section 69, act of August 28, 1894, must qualify as manufacturers of tobacco in the manner prescribed in section 3355, Revised Statutes, as amended by section 14, act of March 1, 1879, and in subsequent sections relating to the manufacture of tobacco, and must conform to the regulations established in January, 1892. And such leaf tobacco, so regarded

**Leaf tobacco dealers to qualify as manufacturers**—Continued.

as manufactured tobacco, must be put up in packages such as are prescribed in section 3362, Revised Statutes, as amended by the act of 1883, for fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for; and, when such tobacco is sold or removed for use, it shall be subject to the tax of 6 cents per pound, and stamps therefor shall be affixt and canceled in the manner prescribed for like packages of fine-cut chewing tobacco. (T. D.; August 28, 1894.)

**Dealers in playing cards.**

Saloon keepers and others who sell, even occasionally, cards to "persons playing games in their places," are held to be dealers therein within the meaning of section 38, act of August 28, 1894, and are required to pay a tax of 2 cents on every pack in their stock; but where the playing cards are not in any instance sold but merely furnished temporarily to the players by the saloon keepers, or clubs, or others in whose houses the games are played, who themselves retain the ownership of the cards, it is held that tax is not required to be paid by them on the packs in their possession. (T. D.; August 29, 1894.)

**Warehousing bonds filed under protest.**

The Commissioner being advised that, in certain districts, distillers in filing warehousing bonds under section 49, act of August 28, 1894, file therewith a written protest, setting forth among other things that the said bonds are given under coercion and compulsion and are not the voluntary bonds of the signers, it is held that collectors should refuse to accept such bonds when given under protest either verbal or written, they will, in the absence of satisfactory bonds, report the case in order that proceedings may be instituted for the collection of the tax under the law. Where bonds, accompanied by such protests, have been already filed, the collector holding the same will at once notify both principals and sureties that said bonds will not be accepted unless the protests be formally withdrawn. Otherwise, if new and satisfactory bonds be not filed, the tax due on the spirits will be collected without delay. (T. D.; August 29, 1894.)

**Branding spirit packages.**

Referring to so much of the provisions of Circular No. 431, dated November 27, 1894, as directs that "the date of the original inspection, the distiller's name, the district and State and registered number of the distillery shall be burned upon the stamp head of all distillers' packages which may remain in warehouse longer than six months, and if the said marks were cut upon the packages upon entry into warehouse they shall be burned in with a branding iron upon removal after the expiration of six months," collectors are advised that said regulations are hereby modified to the extent simply of not requiring the date mentioned to be burned upon all packages warehoused prior to the date of said circular, except as regards the date of original inspection, which will be burned upon all packages of spirits upon withdrawal made after the spirits have been in warehouse six months. (T. D.; March 14, 1895.)

**Corporations—Income-tax returns.**

Corporations are required to make income-tax returns to the collector, or a deputy collector, of the district in which their principal office from which all their business is directed and where their books and records pertaining to such business is located. Branch houses and subagencies are, therefore, not required to make returns to collectors of that part of the business under their control. Collectors are instructed to ascertain from all agents, managers, or other persons in control of the branch or local business of corporations, situated in their respective districts, the exact location of the principal office of the corporation which they represent, and to forward the information received from such agents to the collector of the district in which said principal office is located. (T. D.; March 16, 1895.)

**Distillers' notices and bonds.**

With reference to the preparation and execution of distillers' annual notices and bonds, collectors are advised that, when given by executors, administrators, receivers, or other persons acting in fiduciary capacities must not only recite the estate or person represented, but indicate the same by the signature. The attention of collectors is especially directed to regulations under the head "Power of collectors to refuse distillers' bonds," and they are instructed that, when bonds are tendered by persons who have been convicted of any fraudulent noncompliance with the law relating to the duties and business of distillers, or who have compromised such offenses, they should so exercise the power conferred as to give full force and effect to the statute in that regard. A corporation that is tendered as security must be duly authorized by the Attorney-General of the United States, and must have an agent appointed in pursuance of the law. (T. D.; April 4, 1895.)

**Retail liquor dealers—Deceptive names.**

In the case of United States *v.* Wilson, involved in an indictment for carrying on business of a retail liquor dealer without having paid special tax, the district court for the eastern district of Missouri, May 20, 1895, *Held*, substantially, that—

(1) The term "domestic distilled spirits," as used in the law requiring retail liquor dealers to pay a special tax to the United States before engaging in the business, does not include patent and proprietary medicines, manufactured and sold in good faith for curative or health-imparting properties, altho they may contain a large percentage of distilled spirits as one of their essential ingredients; nor does the fact that men with strong appetites for drink occasionally buy such preparations and, by the use of them, become drunk, furnish any adequate reason for classifying them as distilled spirits.

(2) The law, however, is not to be evaded by mere deceptive names, and if alcoholic beverages in which the essential ingredient is distilled spirits, disguised by aromatic or other drugs, are commonly bought and sold as and for intoxicating beverages, the same are not to be classed as patent or proprietary medicines by whatever names they may be known, and the seller thereof is liable to the tax as a retail dealer. (T. D.; October 9, 1895.)

**Oleomargarine for export—Marking, branding, labeling, etc.**

In conformity with the authority contained in section 16, act of August 2, 1886, it is ruled that hereafter, no trade-mark, label, brand, picture, illustration, nor other advertising or descriptive device will be allowed to be used upon the tins or inner package devices of manufacturers' original packages of oleomargarine for export which in anywise conceal the Government brand, "Oleomargarine," required under section 16, act of August 2, 1886, to be branded upon all packages of oleomargarine for export. (T. D.; October 22, 1895.)

**Disclosing contents of official records forbidden.**

It is held that, to secure the enforcement of the regulation of the Commissioner of Internal Revenue forbidding the disclosure of the contents of the records in the offices of the various collectors of internal revenue, it is necessary not only to protect the officers from producing the records, but from divulging statements from which such records are made. Internal-revenue officers are not subject to the orders of the State courts when obedience to such orders would require such officers to disobey the rules and regulations established by the General Government. (T. D.; November, 27, 1895.)

**Abuse of official frank.**

Only official matter should be franked thru the mail and only in envelopes or wrappers provided by the Executive Department for the use of officials of their respective departments. There is no authority of law for collectors of internal revenue or

**Abuse of official frank**—Continued.

other individuals (excepting Senators and Members of Congress) to use a rubber stamp or other device for franking mail matter. Where bundles too large to be contained in the envelopes or wrappers furnished are to be mailed by internal-revenue officers, a penalty envelope should be pasted on the package. (T. D.; November 25, 1895.)

**Withdrawal of alcohol from bond for scientific purposes.**

In all cases where the alcohol to be withdrawn is for the use of an incorporated or chartered, scientific institution or college of learning, the application and bond must be given by the president, or curator of the institution as such officer, and not in the corporate name of the institution as heretofore required under previous regulations. Collectors of internal revenue will see that all applications and bonds in such cases are given in the manner here indicated, and where application is made under any outstanding bond not so executed, a new bond, conforming to the revised regulations must be given. This requirement does not apply to bonds given for the withdrawal of alcohol for the use of "any scientific university or college of learning created and constituted such by any State or Territory under its laws, tho not incorporated or chartered," inasmuch as the bond in such cases may, under the amendatory act of May 3, 1878, be "executed by any official of such university or college, or by any other person for it." (T. D.; November 14, 1895.)

**Regage of fruit brandy—No extension of time.**

Referring to the act of August 28, 1894, it is held that a regage of bonded spirits for leakage allowances can be made on application of the distiller when, in the case of fruit brandy, filed "prior to the expiration of four years from the date of original gage," and after fixing the allowances to be so made, the section expressly provides that "the tax shall be collected on the quantity contained in the cask or package as shown in the original gage where the distiller does not request a regage before the expiration of four years from the date of the original entry or gage." No exception is made in case of failure on the part of the distiller to file his application in the required time; and the requirement in such cases is obviously necessary to enable the officers to compute the allowances which, as to time, are in no case to exceed forty-eight months. (T. D.; November 30, 1895.)

**Excessive losses of distilled spirits.**

As the question of excessive leakage of distilled spirits depends largely on the circumstances under which the loss occurs, no fixt rule can be established in such cases. Any loss which exceeds by 50 per cent the legal allowance on any cask or package will, however, be regarded as excessive, and collectors of internal revenue will, in all such cases, immediately collect the tax due on the original contents of such cask or package, less only the allowance authorized by law. A smaller loss than 50 per cent will be deemed excessive, where spirits have remained in warehouse a comparative short period of time. (T. D.; February 17, 1896.

**Regage of bonded spirits—Act of 1895.**

Under existing law, spirits which have been regaged on application of the distiller before the expiration of four years from the date of original entry, may remain in bond for a further period of four years; and the obvious purpose of section 50, act of August 28, 1895, in requiring a second or final gage at the time of withdrawal is to guard against the "filling up" of the packages after the leakage allowance and the taxable quantity of spirits have been determined by the previous gage. Such being the plain purpose of the statute the provisions of the law seem equally plain as requiring, viz: (1) A second or final regage on the withdrawal of the spirits and at a time which will prevent any unlawful tampering with the packages to be so withdrawn. It is, therefore, clear that such regage should be made as near the time

**Regage of bonded spirits—Act of 1895**—Continued.

of actual withdrawal of the spirits as circumstances will permit. (2) The tax should be collected on the original gage where, upon the final gage, the packages are found to actually contain a greater quantity of spirits than found therein at the time of the previous gage. (T. D.; December 19, 1895.)

**Regage of brandy—Details of procedure.**

Collectors of internal revenue are advised that hereafter, when brandy in a special bonded warehouse, in their district, which has been regaged under section 50, act of August 28, 1894, is withdrawn for transfer to a special bonded warehouse in another district, there should be sent to the collector of the receiving district a detailed report, showing the contents of each package by the original gage, and another detailed statement showing the quantity found by the regage under the aforementioned section 50, act of August 28, 1894. (T. D.; February 27, 1896.)

**Refuse of tobacco—Regulations as to sale.**

It is ruled, under section 3362, Revised Statutes, that whenever a manufacturer desires to sell his stems, shorts, or refuse scraps, clippings, cuttings, and sweepings of tobacco in bulk and as material to another manufacturer of tobacco, snuff, or cigars to be further manipulated, manufactured, or mixed with other manufactured tobacco, he should apply to his collector for a special permit to make such a sale and transfer. In making such application the manufacturer must state the number of his factory, the kind and quantity of tobacco he wishes to sell and remove as material, and at the same time he must give the name of the manufacturer to whom he wishes to sell his factory number, and the district and State in which his factory is located. (T. D.; March 23, 1896.)

**Regage of bonded spirits under act of 1894.**

To avoid the risk attending delays in filing notices or requests for the regage of bonded spirits under section 50, act of August 28, 1894, especially in districts where large quantities of spirits are to be regaged, it is advised that such notices be filed at least fifteen days before the expiration of the four years from the date of the original gage of the oldest spirits described in the notice; also, for convenience, that when practicable the request cover all the spirits produced during a given month which then remain in the warehouse, such request to call for the regage of each cask or package immediately at the expiration of four years from the date of the original gage. In no case will any of the spirits embraced in the request, unless upon special request of the distiller, be gaged prior to the expiration of the four years. (T. D.; April 11, 1896.)

**Expiration of period for regaging.**

As to the exact day of the expiration of the four years designated for regaging bonded spirits under the act of August 28, 1894, it is held that in order to secure the benefits of section 50 of that act the request of the distiller for regage must have been received by the collector on or before the close of business of the day marking the expiration of four years from the day of actual deposit of the spirits in the warehouse. For example, if the spirits were actually deposited April 24, 1892, then the four years expire on or before the close of business April 23, 1896; and, should this latter date occur on a legal holiday, the request should be made on the preceding day. (T. D.; April 27, 1896.)

**Regage under act of 1894—Filing and dating requests.**

Requests for regage made under section 50, act of August 28, 1894, should be plainly dated by the distiller, and the date of filing with the collector should be carefully recorded thereon. Such requests should be filed primarily with the collector, who will transmit them to the gauger. These instructions are designed to stop the informal methods now prevailing in certain districts, where distillers are presenting

**Regage under act of 1894—Filing and dating requests**—Continued.

these requests signed in blank and undated to persons other than the collector or his authorized deputy. No Government officer is authorized to fill in or date blank requests for distillers. Each collector will immediately notify every distiller in his district of these instructions by furnishing him a copy. (T. D.; May 5, 1896.)

**Delay in affixing tax stamps on spirits.**

As to whether, in view of section 3288, Revised Statutes, distilled spirits on which the tax has been paid may be retained in the distillery warehouse until such time as the distiller may choose to deliver up the tax-paid stamps issued for such spirits, it is held that any undue delay on the part of the distiller in delivering such stamps to the gauger or in removing the spirits from the warehouse after the stamps have been affixt to the packages will render the spirits liable to forfeiture under said section, and that proceedings should be at once instituted for the forfeiture of the spirits in all such cases. Sections 3294 and 3295 show that upon filing the prescribed entry for withdrawal by the distiller and on payment of the tax due the collector is required to issue an order on the storekeeper for the delivery of the spirits from the warehouse, and that on the receipt of such order the gauger is required to affix on the casks containing the spirits the tax-paid stamps issued by the collector on payment of the tax, as provided in section 3313, Revised Statutes. These provisions of law are intended to secure the prompt removal from warehouse of all spirits on which tax has been paid, the purpose of section 3288 being to enforce a strict compliance with the provisions of the law, thereby preventing a fraudulent transfer of other spirits to the packages inspected and tax paid for withdrawal. (T. D.; May 22, 1896.)

**Ruling as regards gagers' returns.**

An examination of gagers' returns showing the regage of spirits on withdrawal from warehouse on payment of tax, in cases where there has been a previous regage on request at the expiration of forty-eight months, makes it apparent that in many instances tax was paid on the proof gallons found upon such regage for withdrawal instead of upon those shown by the first regage made on request. Collectors are therefore reminded that under section 50, act of August, 1894, tax is to be collected on the quantity of spirits contained in each package as shown by the regage made on request of the distiller at the expiration of four years from date of warehousing, except in cases where there is an excessive loss of spirits in bond or where packages are found on the regage for withdrawal to contain a larger quantity than shown by the first regage. (T. D.; June 2, 1896.)

**Distillers of brandy—Exemptions under act of 1896.**

Section 3255, Revised Statutes, as amended by the act of June 3, 1896, now provides that "the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries, or prunes from any provisions of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so." Under the authority of this section the Commissioner has exempted distillers of brandy from the several fruits named from the provisions of law relating to the manufacture of spirits from distillers of brandy from apples, peaches, or grapes, exclusively, have heretofore been exempted. (T. D.; June 22, 1896.)

**"Filled cheese"—Meaning of the term.**

It appears from an examination of the first and second sections of the act of June 6, 1896, imposing a tax on "filled cheese," and a special tax on manufacturers thereof and dealers therein, that the fancy cheese, described as of high grade and quality, put up in small packages of paper, wood, or porcelain, and sold at high prices, must

**"Filled cheese"—Meaning of the term**—Continued.

be held to be "filled cheese" within the meaning of the act. The language of law is such as apparently leaves no room for any other construction, the definition of "filled cheese" in the second section of the act requiring that every substance or compound in the form of cheese shall be regarded as "filled cheese" when it is made of milk or skimmed milk with the admixture of butter, animal oils, or fats, vegetable or any other oils or compounds foreign to such milk." (T. D.; August 25, 1896.)

**Tax on articles exported.**

A statement to the effect that an article is about to be exported can not warrant the collecting officer in permitting its removal without the payment of the tax, and he must therefore collect the tax and affix the prescribed stamps to each package upon its removal from the factory, leaving it for the exporter after the landing of the goods in a foreign country to furnish proof of such landing and make claim for return of the tax paid thereon, except where there is a special provision, as in section 16, act of August 2, 1886, for the acceptance of an export bond as to the packages intended for exportation "without payment of tax or affixing stamps thereto." (T. D.; August 31, 1896.)

**Filled cheese tax—Exportation.**

Referring to the imposition of tax on "filled cheese" intended to be or actually exported, and particularly to the provision of the Federal Constitution that "no tax or duty shall be laid on articles exported from any State," the Commissioner of Internal Revenue has given the law careful consideration. The language of the Supreme Court in the case of Turpin *v.* Burgess seems to admit of but one construction. The court says: "The prohibition * * * has reference to the imposition of duties on goods by reason or because of their exportation, or whilst they are being exported. That would be laying a tax or duty on exports, or on articles exported, within the meaning of the Constitution. But a general tax laid on all property alike, and not levied on goods in course of exportation, nor because of their exportation, is not within the constitutional prohibition." If the Supreme Court be right in this holding, the filled cheese law does not come under the constitutional inhibition. Whether the manufactured product is afterwards exported or not it is none the less taxable. It is only where special legislation authorizes exports to be exempt from tax that they can be so exempt. (T. D.; September 3, 1896.)

**Regage of spirits for withdrawal.**

It is held that the request for the regage of distilled spirits for withdrawal under section 50, act of August 28, 1894, is of as great importance in cases of withdrawal prior to the four years limited by that section as where the spirits remain in bond more than four years. The allowance for loss can be made, no matter when the withdrawal is made, in case of a request for regage in due form on the collector, and in the absence of such a formal request the tax must be paid on the original gage. (T. D.; October 6, 1896.)

**Privilege of distillers as to date of regage.**

Under section 50, act of August 28, 1894, the distiller is entitled to have his regage made at any time he may elect. Ordinarily the request for regage will be made shortly before the expiration of the four years limited in the law, and the desire will be that the regage be made at the expiration of that limit, but if the distiller words his request so as to specially ask for a regage at a given time or any time before the expiration of the four years this is his privilege, and must be granted. (T. D.; October 30, 1896.)

**Entries for withdrawal of spirits—Forms required.**

Collectors are advised that they should decline to recognize entries for the withdrawal of spirits which are not signed by the actual distiller or by his duly authorized representative, who must be known to be so authorized. When the name of a firm or corporation or an assumed name of a distiller is signed to an entry it should be followed by the signature of the person who actually signs, which signature should be preceded by the word "by" and followed by words indicating the capacity in which the signer acts, as "distiller," "agent," "member of the firm," "president" (of a corporation), as the case may be. (T. D.; December 1, 1896.)

**Reinspection of spirits.**

It is held to be desirable that the reinspection of spirits in general bonded warehouses, or upon withdrawal therefrom, should be made by weighing, and the collector should give instructions to this effect to the gaging officer assigned to duty at such warehouse in his district and see that the same are complied with strictly. (T. D.; December 14, 1896.)

**Pipes on outside of statutory tobacco packages.**

The ruling heretofore made prohibiting the attaching of pipes to the outside of statutory packages of tobacco is amended and so modified as to read as follows, viz: "Hereafter manufacturers of tobacco will be permitted to attach pipes to the outside of statutory packages of tobacco by a single piece of cord or twine past once around the package. This concession is restricted solely to pipes. They must not obscure or obliterate the stamp, caution notice, and brand marks required by law, nor in any way invade the interior of the package, and must be so attached as to be easily removed in order that the net weight of the package may be determined when occasion requires." (T. D.; March 27, 1897.)

**Notices and requests for regage of spirits.**

All notices and requests for regage giving a description of the packages which the distiller may desire to have regaged in order to receive the allowance authorized under section 50, act of August 28, 1894, must not only be filed with the collector prior to the expiration of four years from the date of the original gage of each such package, but each package must be distinctly specified by its serial number in the request of regage. As the law requires not only a description of the spirits, but a description of the packages containing the same, it is only upon the receipt of a notice of such description and a request for the regage of the spirits that the collector is required to direct a gager to regage them and to mark upon each such package the number of gage or wine gallons contained therein. (T. D.; April 2, 1897.)

**Requests for regage required to be written.**

In view of the requirements of the act of August 28, 1894, oral requests for regage can not under any circumstances be accepted, and the filing of written requests must be actual and not constructive in order to obtain a regage of spirits under the act. (T. D.; April 2, 1897.)

**Dilution and sale of alcohol in bulk.**

As to the question of the right of a druggist to dilute alcohol in bulk for sale, it is held that there is no objection so far as the internal-revenue laws are concerned, to such dilution of alcohol by a druggist, or to his sale of alcohol diluted to any extent, or undiluted, provided he holds the requisite special-tax stamp as a liquor dealer. Under a long-settled ruling the exemption from special tax granted to apothecaries by section 3246, Revised Statutes, relates only to medicines made up of drugs in combination with distilled spirits or wines, and therefore a druggist can not, without involving himself in liability to a criminal prosecution, sell alcohol, or any distilled spirits, or wine, or any other alcoholic liquor not combined with drugs unless he holds a special-tax stamp covering such sales, even though he sells under a doctor's prescription. (T. D.; April 17, 1897.)

**Conversion of alcohol and special tax.**

As to a druggist's right to convert 95 per cent alcohol into absolute alcohol by removing the water by absorbents, he can do so without involving himself in liability under the revenue laws if the absolute alcohol be wholly used, in combination with drugs, in the preparation or making up of his medicines. But if he sells or offers for sale the alcohol not compounded into medicine he is required to pay a special tax therefor as a rectifier, and special tax, also, as a liquor dealer. (T. D.; April 17, 1897.)

**Bottling distilled spirits in bond.**

Distillers who desire to bottle distilled spirits in bond under the act of March 3, 1897, are notified that the law requires the following data to be placed on the strip stamp, viz: The proof of the spirits, the registered distillery number, the State and district in which the distillery is located, the real name of the bona fide distiller, the year and distilling season, whether spring or fall, and the date of bottling. The date of bottling may be stated as either spring or fall and the proof of the spirits may be omitted in making orders for stamps. (T. D.; April 28, 1897.)

**Exportation of oleomargarine.**

Under regulations concerning oleomargarine, dated June 18, 1895, as modified for purposes of exportation, manufacturers may put up the article for export in wooden, tin, or other vessels, containing not less than one-half pound each, provided the application for withdrawal fully sets forth the kind and capacity of each vessel and the number thereof, and provided the word "Oleomargarine" is conspicuously marked or stamped on the top or end face of the vessel or package in letters not less than one-half inch square, and provided that all other regulations are complied with fully. (T. D.; May 21, 1897.)

**Bonds of manufacturers of tobacco and cigars.**

The regulations of the Bureau of Internal Revenue require collectors as often at least as once a year to examine the bonds of manufacturers of tobacco and cigars in their respective districts and assure themselves of the continued responsibility of the sureties. New bonds will be required where the old ones do not come up to the requirements of the regulations and of the law. Bonds must be executed before some officer authorized by law to take the acknowledgment of deeds, or before the collector of the district or one of his deputies. In regard to guaranty companies being accepted as sureties, collectors are directed to the act of August 13, 1894. (T. D.; July 17, 1897.)

**Stockholder as bondsman of a corporation.**

With reference to bonds of manufacturers of tobacco and cigars, it is held that a stockholder in a corporation who qualifies to possessing property other than stock in the corporation sufficient to afford additional and adequate security may be accepted as surety on the bond of a corporation doing business as a manufacturer of tobacco and cigars. (T. D.; July 24, 1897.)

**Articles of a foreign nature prohibited in tobacco packages.**

Collectors of internal revenue are advised that section 10, act of July, 1894, is so construed as to prohibit packages of smoking tobacco, fine-cut chewing tobacco, cigarettes, and cigars, weighing not more than 3 pounds per thousand, heretofore called "tobacco cigarettes," from having packed in, attached to, or connected with them any article or thing whatsoever of a foreign nature. The law makes no exception, and, accordingly, this office holds that, under the strict language used, statutory packages of tobacco, cigarettes, and cigars should contain nothing except the tobacco, cigars, and cigarettes respectively put up therein. (T. D.; August 21, 1897.)

**Manufacturing corporations must file evidences of authority.**

Every corporation proposing to engage in the manufacture of tobacco or cigars should accompany its statement or its bond with a copy of its charter or articles of incorporation, and furnish the collector an abstract from the minutes of some meeting of stockholders showing the election of officers, and a certified copy of the by-laws or that portion thereof authorizing the officer or officers to sign for the company, or of a resolution adopted at some meeting of the company or the directors giving such authority. (T. D.; September 28, 1897.)

**Farmers selling leaf tobacco.**

All restrictions upon the farmer and grower in regard to the sale of leaf tobacco of his own production, in its natural condition, were removed by the act approved August 28, 1894. While the farmer is not restricted as to the sale of his leaf tobacco in its natural condition, the manipulation of it renders it liable to tax. All tobacco is held to be manufactured that is in any manner changed after being dried and cured upon the farm where it is produced, and the same will be subject to the tax of 6 cents per pound, the owner being required to qualify as a manufacturer of tobacco. (T. D.; October 9, 1897.)

**Use of case stamps after the season.**

Case stamps for distilled spirits bottled in bond, printed for use in the fall of 1897, and not used prior to January 1, 1898, may be retained in custody of the storekeeper, or storekeeper and gauger, for the use of the distiller for whom said stamps were printed, and may be used in the fall of 1898, by said distiller in the manner to be hereafter provided. (T. D.; November 20, 1897.)

**Termination of publications in the "Revenue Record and Journal."**

Collectors of internal revenue are notified that the Bureau of Internal Revenue has terminated its subscription to the United States Revenue Journal, and that hereafter decisions and circulars relating to the internal revenue will be published weekly by the Treasury Department. (T. D.; January 6, 1898.)

**Returns and records of gaging officers.**

The attention of collectors is called to the regulations relating to monthly returns to be rendered by all gaging officers, particularly to the paragraphs forbidding collectors to approve the monthly pay accounts of officers until they have satisfactorily accounted for property with which they are charged, and requiring officers retiring from the service, in addition to a final report, to file a receipt showing that such property has been delivered to the proper officer. This record is intended as a check on the returns thus rendered and receipts thus filed, and as a means of tracing and identifying all instruments found in the possession of persons having no right to the same. (T. D.; January 6, 1898.)

**Seal presses.**

It is directed that where a new seal is required to replace one worn out, or for other reason, the legend thereon shall not contain the name of the collector. The name of the district is all that is required. The seal press is the property of the United States, and should not be removed from the collector's office. (T. D.; January 7, 1898.)

**Information from revenue records.**

Collectors of internal revenue are forbidden to give out information from records in their office for any purpose not contemplated by the internal-revenue laws. But the special-tax record is required to be kept conspicuously in the office for public inspection, in accordance with the provisions of section 3240, Revised Statutes. (T. D.; January 21, 1898.)

**Cases of solvent taxpayers can not be compromised.**

Taxes legally due from a solvent taxpayer can not be compromised. If a party claims relief from an assessment which is alleged to be erroneous, the proper method for him to take is to make a claim for abatement and not an offer of compromise. (T. D.; January 22, 1898.)

**Violations of internal-revenue laws—Offers of compromise.**

In pursuance of sections 3229 and 3469, Revised Statutes, in respect to violations of the internal-revenue laws and compromises thereunder, it is held to be a condition precedent to the consideration of any offer in compromise that the moneys tendered as tax or as penalty be deposited to the credit of the Secretary of the Treasury. This applies to costs also, except in cases where they have been deposited in the registry of the court, in which event satisfactory evidence of such deposit must be furnished the Commissioner of Internal Revenue. It is preferred that the costs, or a reasonable amount to cover them, be deposited to the credit of the Secretary of the Treasury, and collectors should notify proponents of overtures of this preference when conferred with on the subject. In the event of a rejection of the offer of compromise the money deposited will be immediately returned on application by the proponent. (T. D.; January 22, 1898.)

**Liquor dealers in Indian Territory.**

Special-tax stamps, being only receipts for taxes paid, may be issued by the collector of internal revenue, notwithstanding acts of Congress relative to the sale of liquors in Indian Territory. (T. D.; January 29, 1898.)

**Liquor dealers presumed to know the law.**

When an application is made for a liquor dealer's special-tax stamp, the presumption is that the applicant intends to carry on a lawful business, and it is the duty of the collector thereupon to receive the tax proffered and to issue the stamp. The person receiving the stamp knows the consequences of selling alcoholic liquor as a beverage when the local law forbids such sales, and if he determines to sell in defiance of the law it is just and right that he should suffer criminal prosecution and imprisonment, and the breaking up of his business under the local law, and also lose the money paid for his stamp under the internal-revenue law. (T. D.; January 29, 1898.)

**Special-tax stamp must designate place of business.**

It is held that the internal-revenue laws do not contemplate the issuance of a special-tax stamp for any other than a fixed place of business, except in the case of a railway train, or boat, or vessel engaged in carrying passengers for which special provision is made by the joint resolution of Congress approved May 8, 1876, and the law and instructions are not complied with when any special stamp is issued without designating therein the particular place of business by street and number, or where these do not exist, by some other particularization besides the mention of the city, town, or hamlet, with the exception already stated. (T. D.; January 31, 1898.)

**Section 3241, Revised Statutes, as to special tax.**

If a special-tax payer carries on business at any other place than that for which his stamp was issued without having had the stamp transferred in compliance with section 3241, Revised Statutes, the stamp is held not to cover the business, and the taxpayer is liable to criminal prosecution and to assessment of special tax and penalty for the new place of business. (T. D.; January 31, 1898.)

**Medicinal compounds—Alcoholic beverages.**

There being no stamp tax on proprietary compounds, there is no longer a list of alcoholic preparations which may be made and sold under former rulings based on the old proprietary medicine act without payment of special tax. All such rulings have been superseded by the general rulings applicable to all cases where such compounds are held out to the public as medicines and not as beverages. (T. D.; February 1, 1898.)

**Warehouse certificates for whisky in bond.**

The special tax of a wholesale liquor dealer is required to be paid for the sale of such warehouse certificates as are unconditional, but wholesale liquor dealers may receive them from the owners to sell for them without involving the latter in special-tax liability. Special tax is not required to be paid for the selling of conditional warehouse certificates. (T. D.; February 2, 1898.)

**Sale of spirits on delivery of warehouse certificates.**

The sale of spirits is held to be actually completed at the time of the sale and delivery of warehouse certificates, and the special tax of a wholesale liquor dealer is required to be paid therefor notwithstanding the fact that the purchaser is delayed in obtaining immediate possession of the spirits by reason of the necessity of obtaining the signature of the distiller to applications and entries for regage and withdrawal of the spirits upon payment of the tax thereon, under the act of August 28, 1894. (T. D.; February 2, 1898.)

**Construction of section 3319, Revised Statutes.**

It has long been held that section 3319, Revised Statutes, making it a criminal offense for a rectifier or liquor dealer to purchase or receive distilled spirits in quantities greater than 20 gallons from any person other than an authorized rectifier, distiller, or wholesale liquor dealer, relates to actual packages of spirits, and not to warehouse certificates or other instruments representing such packages. (T. D.; February 2, 1898.)

**Transfer and delivery of certificates—Payment of special tax.**

Collectors are advised with further reference to sales of warehouse certificates, that as the terms in which these certificates were drawn in former years have been materially changed in many instances by the introduction of conditions and stipulations which must be complied with at some future time and place before the purchaser can become entitled to the ownership and possession, either constructive or actual, of the packages of spirits described therein, it is held that the transfer and delivery of such warehouse certificates do not neccssitate the payment of special tax under the internal-revenue laws. (T. D.; February 2, 1898.)

**Suits under internal-revenue laws.**

It is held that, under the internal-revenue laws, no suit is to be regarded as commenced in a criminal case until the filing of an indictment in court, nor in a civil case until the filing of a declaration. Therefore, in a criminal case the making of a complaint before a United States commissioner is not to be considered as the beginning of the suit or proceeding. (T. D.; February 3, 1898.)

**Prosecutions against special-tax payers.**

The rule heretofore made that prosecutions are not to be instituted against liquor dealers under sections 3239 and 3242, Revised Statutes, or section 3242a (compilation of 1894), until after the expiration of the calendar month in which their special-tax liability began, relates only to such dealers at fixed places of business. It has no application to persons traveling from place to place selling liquor in the manner of peddlers. (T. D.; February 7, 1898.)

**Cigar manufacturer's premises.**

It is held that a cigar manufacturer must confine all his operations to the place described in his formal statement. He can not include in his factory premises a room or cellar in another building separated from his factory proper, altho he may only intend to use such cellar or room for the purpose of storing his tobacco. If a cigar manufacturer desires to purchase and store his leaf tobacco in a separate building, preparatory to its use at his factory, he would be held to be a dealer in leaf tobacco and as such would be required to register and keep accounts of his transactions as such leaf dealer independent of his transactions as a cigar manufacturer. (T. D.; February 12, 1898.)

**Deposit of moneys collected in revenue cases.**

All costs, as well as all other moneys collected in cases arising under the internal-revenue laws, are required to be paid over by the clerks of courts to the collectors of districts in which the cases arise. (T. D.; February 12, 1898.)

**Sales of oleomargarine—Payment of special tax.**

Unless sales of oleomargarine are completed at the factory to the persons ordering the same, the payment of special tax is required to be made at the place of delivery. (T. D.; February 15, 1898.)

**Loss of spirits in warehouse.**

The tax on distilled spirits accrues at the time they are produced and the tax so accruing must be collected in full, unless the spirits are specially exempted by law, and there is no provision of law exempting from tax spirits lost in warehouses by leakage, soakage, or evaporation after the date of the first regage made on a notice and request filed in accordance with the provisions of section 50, act of August 28, 1894. (T. D.; February 18, 1898.)

**Allowances on certain conditions.**

Under the provisions of section 50, act of August 28, 1894, the distillers were entitled to certain allowances if they filed a notice and requested a regage within four years after the original entry of the spirits, and, upon making application and filing the proper bond for the exportation of the spirits, they were entitled to withdraw free of tax all spirits remaining in the packages at the time of withdrawal, such quantity to be then ascertained by a regage. Any deficiency between the first regage and the last regage was taxable at the rate of $1.10 per gallon. (T. D.; February 18, 1898.)

**Cigar manufacturer's accounts.**

It is required that all tobacco shall be accounted for in the condition in which it is purchased. Therefore, all tobacco stemmed in the factory should be reduced by the collector to unstemmed, but tobacco purchased stemmed should not be so reduced. (T. D.; February 18, 1898.)

**Refund of tax on spirits.**

In order to bring a claim for the refunding of taxes paid on spirits that have been entered into warehouse within the provisions of section 3221, Revised Statutes, it must be shown that the loss was not only accidental and without fraud, collusion, or negligence of the owners, but that it occurred while the spirits remained in the custody of an officer of internal revenue in a distillery warehouse or bonded warehouse of the United States, and before the tax thereon had been paid. (T. D.; February 18, 1898.)

**Special tax for sales of beer at a place of storage.**

Where beer is delivered to customers from a storage house, that house is held to be a place of sale for which special tax is required to be paid, unless there has, in every instance, been prior constructive delivery at a regular place of business elsewhere. (T. D.; February 21, 1898.)

**Malt wines—Special tax.**

It is held that a liquor made from barley malt, fermented by means of a wine yeast, is a fermented malt liquor for the manufacture of which for sale the special tax of a brewer is required to be paid and on which a tax is imposed by section 3339, Revised Statutes, notwithstanding the fact that, by the use of a wine yeast, instead of a beer yeast, it has the taste and appearance of wine. (T. D.; February 4, 1898.)

**Unexpired special-tax stamp transferable.**

In the case of a retail liquor dealer and druggist who made an assignment and whose stock of liquors was sold, the purchaser thereof turning the stock over to the wife of the former owner, the collector is advised that the wife is held to be entitled to continue the business under the husband's special-tax stamp for the remainder of the term for which it was issued. (T. D.; February 25, 1898.)

**Restaurateurs—Special tax.**

Restaurateurs who furnish wine to customers at table, with meals, are required to pay special tax as retail liquor dealers, under the internal-revenue laws. (T. D.; March 1, 1898.)

**Filter—Rectifier of liquor.**

A filter, used as an "apparatus for the purpose of refining in any manner distilled spirits," the presence of which is found in use on the premises of a wholesale or retail dealer, constitutes such dealer a rectifier under the third subsection 3244, Revised Statutes, as amended. (T. D.; March 3, 1898.)

**Regage of domestic spirits.**

A second regage and report upon application should be made immediately before withdrawal, even tho the spirits have not remained in warehouse; but tax should be paid on the quantity of spirits found by the first regage unless the quantity of spirits found at the second regage exceeds that found at the first regage, in which case they must be withdrawn, tax paid on the original gage. (T. D.; March 3, 1898.)

**Rubber stamps forbidden on tobacco packages.**

Collectors are advised that there is no precedent for allowing a caution label to be put on packages of tobacco with a rubber stamp, and, after due consideration, it is decided not to authorize the use of such stamps. The impression made by such stamps is generally indistinct, especially after the stamp has been in use for some time. Collectors will, therefore, notify manufacturers to discontinue the use of such stamp and to substitute therefor the usual printed caution-notice label required by law and by the regulations. (T. D.; March 10, 1898.)

**Beer stamps—Seven and one-half per cent discount thereon.**

No discount is allowable on stamps purchased July 24, 1897. The act bearing that date is operative from and after midnight of July 23, 1897. A discount is not allowable on beer stamps unless bought and used by brewers prior to the taking effect of the act of July 24, 1897, by which was repealed the provision of section 3341, Revised Statutes, allowing such a deduction. (T. D.; March 12, 1898.)

**Labels on cigar boxes.**

No other name than that of the manufacturer can appear on the caution-notice label affixt to cigar boxes unless associated with the manufacturer's name. The manufacturer may print or affix the name of the dealer upon cigar boxes when such printed matter does not indicate that such dealer made the cigars. (T. D.; March 12, 1898.)

**Wine as defined for revenue purposes.**

A fermented liquor made from oranges, sugar, and elder blossoms is wine within the the meaning of the internal-revenue laws and the special tax of a liquor dealer is required to be paid for its sale. (T. D.; March 14, 1898.)

**Liability to special tax.**

The sale of beer, whisky, or other alcoholic liquor which has not been combined with drugs or other medicinal substances, involves the seller in special-tax liability, even though it be sold under a label as a medicine. (T. D.; March 14, 1898.)

**Tobacco and cigars manufactured for export.**

Persons proposing to manufacture tobacco and cigars exclusively for export are required under the internal-revenue laws to qualify both as manufacturers of tobacco and as manufacturers of cigars. Tobacco, cigars, and cigarettes manufactured exclusively for export may be packed in such quantity and in such kind of packages as desired. (T. D.; March 17, 1898.)

**Exemptions under section 3397, Revised Statutes.**

Section 3397, Revised Statutes, as amended, provides that cigars packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner of Internal Revenue, shall be exempt from the provisions of said section and, also, from the provisions of section 3393, Revised Statutes, requiring a label to be affixt to each box. Therefore, this office does not prescribe the number of cigars nor cigarettes that may be put up in a single package for export, nor does it prescribe the kind of package that shall be used. (T. D.; March 17, 1898.)

**Oleomargarine—Special tax.**

Persons who have sold oleomargarine by retail are entitled to remission of the special tax required of retail dealers in oleomargarine upon showing that they had bought and sold the substance as butter, supposing it to be butter. They can only be relieved from prosecution and from the 50 per cent penalty. (T. D.; March 19, 1898.)

**Compound liquors—Special taxes.**

The beverages called "New Era Champagne" and "Granele," which are made by the admixture of alcoholic liquor with other materials, are compound liquors for the manufacture and sale of which the special taxes of a rectifier and liquor dealer are required to be paid. (T. D.; March 23, 1898.)

**Malt-liquor dealers.**

Dealers in any small beer that is a beverage similar to Weiss beer, and is either fermented malt liquor, diluted and reduced in alcoholic strength, or is a fermented liquor made from some substitute for malt, are required to pay special tax as malt-liquor dealers. (T. D.; March 24, 1898.)

**Partnership—Retail dealer's special tax.**

When two persons who have been carrying on business as retail liquor dealers enter into a partnership to continue the same business at a different place from that at which either party theretofore conducted it, a new special tax must be paid by the firm. (T. D.; March 30, 1898.)

**Records in a collector's office.**

Records in a collector's office relating to special taxpayers are based on returns made by such persons under compulsion of law for the sole purpose of raising revenue for the United States Government. Collectors are not permitted to send out these records, nor copies thereof, for use against the special taxpayers in cases arising under the laws of the United States. (T. D.; April 1, 1898.)

**Spirits extracted from empty packages.**

The United States circuit court of appeals for the seventh circuit, January session, 1898, *Held*, in a case brought on writ of error from northern district of Illinois, substantially that the soakage of spirits into distillers' packages, not being included in the basis of computation, is not a part of the quantity upon which the tax is levied, and, consequently, when extracted from the empty barrels, it is spirits on which the lawful tax has not been paid, and is subject to taxation. (T. D.; April 2, 1898.)

**Oil distilled from herbs.**

While there is no tax imposed by the internal-revenue laws on oils distilled from herbs, yet stills used in such distillation, if such as could be used in the production of the spirits defined by said laws, must, immediately upon being set up, be registered with the collector under section 3258, Revised Statutes. (T. D.; April 2, 1898.)

**Payment for personal telegrams.**

When telegrams of a personal character are addrest to the Commissioner of Internal Revenue, the expense of the same must be prepaid. Where a response to such dispatches is required, payment therefor must be provided for by the person in interest. (T. D.; April 7, 1898.)

**Wine manufacturer—Special tax.**

Under the exemption provision of section 3246, Revised Statutes, it is held that a manufacturer of wine may sell the wine at two places without paying special tax as a liquor dealer, viz, the place of manufacture and one "general business office" elsewhere. (T. D.; April 8, 1898.)

**Distillers not under bond—Special tax.**

Distillers who have discontinued operations without bond as distillers and without holding requisite special-tax stamps as liquor dealers, and have sold their distilled spirits, should be reported for assessment of special tax and penalty. The fact, however, that a person has ceased to operate his distillery does not prevent him from giving bond as a distiller there, with notice of continued suspension, to secure exemption from special tax for selling his spirits in the original stamped packages at the distillery, or at the place of storage in bond. (T. D.; April 7, 1898.)

**Internal-revenue stamps redeemable.**

Internal-revenue stamps are redeemable when owned and presented for redemption by persons, or by their legal representatives authorized to purchase and use them for the payment of taxes. If, however, such person purchased the stamps from one not authorized to sell them, or acquired them in any manner not contemplated by law, or for a use or purpose not prescribed by law, he manifestly has no legal claim against the Government for the redemption of them. (T. D.; April 8, 1898.)

**Inspection of lists of special taxpayers.**

While all persons are entitled to inspect the record in a collector's office showing the alphabetical list of special taxpayers, and are not prohibited from copying, at reasonable and proper times, the names and addresses of special taxpayers, yet no one is to be permitted to monopolize the book to the extent of interfering with the collector's use of it, or to the exclusion of other persons. (T. D.; April 9, 1898.)

**Ignorance does not excuse a violation of law.**

It is held that parties selling oleomargarine are liable to special tax, altho they are ignorant that the substance itself is oleomargarine. Ignorance of the law is no excuse or protection for a violation of the law. The presumption is that revenue officers are correct in their conclusions in reference to violations of law and that they discharge their duty honestly. This view was fully sustained by Judge Jackson in his charge to the jury in the United States district court for the district of West Virginia, April, 1898. (T. D.; April 18, 1898.)

**Sale and purchase of beer stamps.**

Under the act of July 24, 1897, a brewer is compelled to pay the full face value of the stamps purchased, without deduction of 7½ per cent previously allowed by section 3341, Revised Statutes. The purchase of stamps by a brewer does not technically pay the tax on his production; the tax is paid when he attaches the stamp to the barrel for the purpose of putting the product on the market. The right to the 7½ per cent discount is not consummated by the mere act of purchase, but is dependent upon the further condition of the stamps being used by the brewer. Altho the law uses the word sale as applicable to the delivery and transfer of stamps, they do not thereby become a commodity of merchandise in the market. The collector, in accepting drafts in payment of tax, acts without the authority of law and does not bind the United States. The collector's agency in the sale of stamps is limited to the sale of stock on hand, but does not confer the right to sell for a future delivery. (T. D.; April 19, 1898.)

**Special-tax stamp for storage.**

An importer of alcoholic liquors, or compounds thereof, who holds a special-tax stamp as a wholesale liquor dealer at his place of business in one city, and sells packages of these liquors at a place of storage in another city, without prior constructive delivery

**Special-tax stamp for storage**—Continued.

to the purchasers at the place where such stamp is held, is required to pay additional special tax and to take out the requisite stamp for that storage place. (T. D.; April 19, 1898.)

**Special tax as a retail or as a wholesale dealer.**

It is held that the question whether a liquor dealer, or malt-liquor dealer, is required to pay special tax as a retail or a wholesale dealer depends upon the actual quantity of liquor disposed of by him at any one sale. (T. D.; April 21, 1898.)

**Sureties on warehousing bonds.**

In reference to the acceptance as sureties to distillers' warehousing bonds, collectors are advised that nonresidents of the judicial district or State in which distillers' warehousing bonds are given should not be accepted as sureties on such bonds. (T. D.; April 30, 1898.)

**Spirits bottled by wholesale liquor dealers.**

Wholesale liquor dealers, before drawing off the contents of a package of spirits into bottles, should enter in Form 52 the setting apart of the package for this purpose, but are not required to enter therein the sending out of the bottled spirits. (T. D.; May 5, 1898.)

**Distiller's sign.**

The sign "Practical distiller," used by a wholesale dealer and rectifier who is not an authorized distiller, is in violation of section 3279, Revised Statutes. (T. D.; May 5, 1898.)

**"Casing fluid for leaf tobacco."**

Where wine is used for making a "casing fluid for leaf tobacco," unless the material added to the wine changes its character so that it is neither a potable liquid nor a liquid coming under the head of distilled spirits, wine, or malt liquor, special tax is required to be paid for its manufacture and sale, tho it be sold only to cigar manufacturers for use in leaf tobacco. (T. D.; May 6, 1898.)

**Manufacturers of wine—Special tax.**

Manufacturers of wine, not from grapes but from berries which were neither of their own growing, nor wild berries gathered by themselves or by persons in their employ, are not within the terms of the exempting provisions of section 3246, Revised Statutes, and must pay special tax as liquor dealers for selling such wine, even when they sell it only at the place of manufacture. (T. D.; May 10, 1898.)

**Manufacturer of medicinal compounds—Special tax.**

A manufacturer of medicinal compounds, by the use of tax-paid spirits in combination with drugs, is entitled to the exemption from special tax granted to apothecaries by section 3340, Revised Statutes, when he sells such compounds only under labels specifying the diseases for which they are held out as remedies, and his use of a pharmacutical still in the preparation of these medicines does not involve him in liability under the internal-revenue laws. (T. D.; May 16, 1898.)

**Root beer—Special tax.**

Root beer, a fermented liquor made from "roots, bark, sugar, and bread yeast," if it is not similar to Weiss beer or to any of the fermented liquors enumerated in section 3339, Revised Statutes, is not subject to tax under this section; nor is the special tax of a brewer required to be paid for the manufacture and sale of it. (T. D.; May 18, 1898.)

**Place of manufacture—Special tax.**

Where grapes are prest at one place and the juice is then carried to another place and fermented, the latter is the place of manufacture of the wine, and the manufacturer is there permitted by the provisions of section 3246, Revised Statutes, to sell it without paying special tax. (T. D.; May 25, 1898.)

**Husband and wife as to special-tax stamp.**

A special-tax stamp taken out by a woman, as a retail liquor dealer, in her own name, is sufficient for the same business conducted by her husband, who takes charge of the business upon her retirement therefrom. He is not required to pay special tax and take out a stamp in his own name because of the fact that a town license was refused to his wife, but issued to him. (T. D.; May 25, 1898.)

**Liquor dealer and apothecary—Special tax.**

The fact that a person is an authorized liquor dealer under the internal-revenue laws does not prevent him from engaging, also, in the compounding of medicines; and if he does so, using spirits in combination with roots, herbs, or drugs, and sells the compound only under a label specifying the diseases for which it is held out as a remedy, he is an apothecary within the exempting provision of section 3246, Revised Statutes. (T. D.; May 26, 1898.)

**Brewers—Special tax.**

A brewer holding a special-tax stamp of the smaller class is not required to pay special tax as a brewer of the larger class until the entire quantity of beer produced by him within the special-tax year amounts to 500 barrels. As soon as the quantities produced month by month within that period amount in the aggregate to 500 barrels he must pay the special tax of a brewer of the larger class ($100) for the entire year. He may then send in his stamp of the smaller class for redemption. (T. D.; June 2, 1898.)

**Special tax at places of storage.**

Brewers who establish places of storage for bottled beer and complete sales by deliveries therefrom to purchasers in wholesale quantities are required to pay special tax as wholesale dealers in malt liquors at every such place. (T. D.; June 2, 1898.)

**Medicinal compounds—Special tax.**

A compound of medicinal roots and distilled spirits, if held out not merely as a remedy for disease, but also as "bitters for mixed drinks," is not to be regarded as made in good faith for medicinal use only, and therefore the manufacturer who sells it under such a label is not entitled to the exemption provided by section 3246, Revised Statutes, and is required to pay special tax as a rectifier and liquor dealer. (T. D.; June 4, 1898.)

**Brewers' returns.**

The returns made by brewers of the amount of beer manufactured and sold by them are made under compulsion of law for but one purpose, namely, the collection of revenue for the United States, and copies thereof are not permitted to be furnished to any person for other purposes. (T. D.; January 4, 1898.)

**Hop beer—Special tax.**

A fermented liquor made for sale from molasses, sugar, corn meal, potatoes, malt, and hops is subject to the tax imposed by section 3339, Revised Statutes, and the manufacturer is required to pay special tax as a brewer under the first subdivision of section 3244, Revised Statutes. (T. D.; June 7, 1898.)

**Revenue law of June 13, 1898.**

In view of the approaching passage by Congress of the act approved June 13, 1898, relating in part to the increase of tax on tobacco, cigars, cigarettes, and snuff, manufacturers should be notified and steps taken to have no removals made from factories after the law goes into effect, unless the tax is paid at the new rate. Collectors are advised to have their deputies visit the factories as soon as possible after

**Revenue law of June 13, 1898**—Continued.

the law goes into effect and see that the manufacturers are complying with its terms; and if any articles have been removed after the new law has gone into effect, improperly stamped, the tax due should be returned for assessment. (T. D.; June 11, 1898.)

**Bottled wines—Stamp tax.**

The provision of the act approved June 13, 1898, imposing a tax on wines bottled for sale, applies not only to native wines bottled in this country, but also to wines bottled in foreign countries and imported into the United States for sale. (T. D.; June 16, 1898.)

**Stamp-tax medicines.**

Every compound which is held out as a remedy for disease, even tho the formula by which it is made is not a secret and the manufacturers claim no proprietary right, is subject to stamp tax under the act of June 13, 1898. (T. D.; June 17, 1898.

**Exemptions under the act of June 13, 1898.**

It is held that orders drawn under a State law for the payment of money out of State funds, and bank checks issued by the treasurer of the State for sueh payments, are exempt from stamp tax, under the act approved June 13, 1898. (T. D.; June 18, 1898.)

**Instructions as to stamps authorized by the act of June 13, 1898.**

The revenue act, approved June 13, 1898, providing for stamp taxes on the documents, articles, and things enumerated therein became operative on and after July 1, 1898, and therefore the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, has authorized certain instructions, with reference to procuring, affixing, and canceling adhesive documentary and proprietary stamps, to be followed by collectors in pursuance of the law. (T. D.; June 18, 1898.)

**Warehouse receipts—Act of June, 1898.**

Companies in the cold-storage business for the preservation of perishable goods are not exempt from the tax imposed by the act of June 13, 1898, upon warehouse receipts for goods, merchandise, or property of any kind held on storage in any public or private warehouse, or yard, except receipts for agricultural products, deposited by the actual grower in the regular course of trade for sale. (T. D.; June 21, 1898.)

**Stamp tax on bank checks.**

Bank checks made and issued prior to July 1, 1898, do not require to be stamped under the act of June 13, 1898, even tho they are not cashed until after July 1. (T. D.; June 22, 1898.)

**Checks issued by a State treasurer.**

Checks issued by a State treasurer on and after July 1, 1898, in payment of the current expenses of the commonwealth do not require stamps under the act of June 13, 1898, It is held that they are exempt from stamp tax under section 17 of said act. (T. D.; June 22, 1898.)

**Sample packages of proprietary articles—Stamp tax.**

The law does not confine the imposition of the stamp tax to articles which are made and sold, inasmuch as section 20, act of June 13, 1898, makes it a punishable offense for the manufacturers of such articles to remove them for purposes of "consumption" without affixing thereto an adhesive stamp denoting the payment of the tax. It is held that sample packages of proprietary articles or medicines sent out, altho furnished absolutely gratuitously, must be regarded as removed for consumption within the meaning of the law. (T. D.; June 22, 1898.)

**Manufacturing companies taxable as banks.**

Manufacturing companies having on hand cash surplus awaiting use in payment of dividends and which surplus is meanwhile lent upon collaterals are required to pay special tax as banks under the act of June 13, 1898. (T. D.; June 23, 1898.)

**Legacy taxes under the law of 1898.**

Under the provisions of the act of June 13, 1898, relating to the tax on legacies and distributive shares, all legacies or property passing by will or by the laws of any State or Territory to husband or wife are exempt from tax. The words "passing after the passage of this act" mean where the grantor dies after the passage of the act. That is the time when the will or intestate laws of the State or Territory take effect. The law does not apply to estates in process of settlement where the grantor died prior to June 13, 1898. (T. D.; June 23, 1898.)

**Mining-stock brokers—Stamp tax.**

As to liability of mining-stock brokers to stamp tax under the revenue law of 1898, it is *Held* that—

(1) Mining-stock brokers and also "persons doing a purely speculative business in mining stocks on their own account, doing no commission business whatever," are subject to the tax of $50, under subdivision 2, act of June 13, 1898, if they are engaged in negotiating purchases or sales of stock "for themselves."

(2) Mining companies which are "capitalized at from one to two and a half and three millions shares, of par value of $1 each, and of which the stock is selling at from 50 cents to $2 and $3 per thousand shares," are required to affix and cancel a 5-cent stamp to every certificate of stock originally issued on or after July 1, 1898, even tho its face value be only $1.

(3) On every transfer of a certificate of stock, a broker delivering the certificate should affix thereto and cancel a 2-cent stamp, in accordance with Schedule A, act of June 13, 1898. (T. D.; June 23, 1898.)

**Taxation of soaps having medicinal properties.**

Soaps are taken out of the category of toilet or laundry articles by a special claim being made for their healing properties or for their effects on the skin or complexion, and in such cases the packages containing the same must be stamped as medicinal or cosmetic articles. (T. D.; June 23, 1898.)

**Mining exchange—Special tax.**

Under the revenue act of 1898, members of a mining exchange are not liable to tax as brokers unless engaged in transacting business in the negotiation of purchases and of sales. (T. D.; June 24, 1898.)

**Stamp tax on checks.**

Checks made and issued to payee prior to July 1, 1898, are not subject to stamp tax, tho presented for payment after that date. Where a check is presented for payment without the requisite stamp, the bank, if it chooses, may affix and cancel the stamp itself, if it be done prior to payment. (T. D.; June 24, 1898.)

**Postmaster's checks—Stamp tax.**

Checks drawn by postmasters on their banks of deposit for the payment of the salaries of employees require a 2-cent stamp under Schedule A, act of June 13, 1898. (T D.; June 24, 1898.)

**Certificates of deposit—Stamp tax.**

A certificate of deposit bearing interest, tho payable on demand, is subject to a tax of 2 cents when it is for a sum not exceeding $100, and for each additional $100, or fraction thereof in excess of $100, 2 cents. In reckoning the amount of special tax required to be paid by a bank, the surplus should be taken as including the undivided profits on hand. (T. D.; June 24, 1898.)

**Warehouse receipts—Stamp tax.**

Warehouse receipts issued by distillers for whisky in bond are subject to stamp tax under the last clause of Schedule A, act of June 13, 1898. (T. D.; June 27, 1898.

**Two per cent tax on sales or delivery of stock, etc.**

Schedule A, act of June 13, 1898, provides a tax of 2 cents on all sales or agreements to sell, or memoranda of sales, or deliveries on transfers of shares or certificates of stock in any association, company, or corporation. (T. D.; June 27, 1898.)

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